



## **General Services Administration - Federal Supply Service Authorized Federal Supply Schedule Catalog/Pricelist**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order is available through GSA Advantage!, a menu-driven database system. The INTERNET address for GSA Advantage! is <http://www.gsaadvantage.gov>. For more information on ordering, visit [www.gsa.gov/schedules](http://www.gsa.gov/schedules)

### **Multiple Award Schedule (MAS) – Large Category Information Technology**

**Contract Number:** GS-35F-0435Y

**Contract Period:** May 30, 2017 – May 29, 2022

**Pricelist Current Through:** Mass Modification, A812 dated 3/6/2020

<b>SINs:</b> 33411	Purchasing of New Electronic Equipment
511210	Software Licenses
54151	Software Maintenance Services
54151S	IT Professional Services
811212	Computer and Office Machine Repair and Maintenance
OLM	Order Level Materials

### **CONTRACTOR:**

Advantage Technologies, Inc. | 228 East 45<sup>th</sup> Street 4<sup>th</sup> Floor South | New York, NY 10017  
Phone: 866.730.1700 | Fax: 212.710.5099 | [www.atechnologies.com](http://www.atechnologies.com)

### **POINT OF CONTACT:**

William Mellone | 228 East 45<sup>th</sup> Street 4<sup>th</sup> Floor South | New York, NY 10017  
Phone: 212-710-5082 | Fax: 212-710-5099 | Email: [BMellone@Atechnologies.com](mailto:BMellone@Atechnologies.com)

**BUSINESS SIZE:** Small Business

## Multiple Award Schedule

### Terms and Conditions for all Information Technology (IT) Contractors

#### 1) Organizational Conflicts Of Interest

##### a) Definitions.

"Contractor" means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

"Contractor and its affiliates" and "Contractor or its affiliates" refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An "Organizational conflict of interest" exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor's or its affiliates' objectivity in performing contract work.

- b) To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508

#### 2) Services Performed

- a) All services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.
- b) The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- c) The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.

- 3) Travel. Any Contractor travel required in the performance of services must comply with the Pub. L. 99-234 and FAR Part 31.205-46, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel.

#### 4) Warranty

- a) Unless otherwise specified in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract.
- b) The Contractor's commercial guarantee/warranty shall be included in the Commercial Supplier Agreement to include Enterprise User License Agreements or Terms of Service (TOS) agreements, if applicable.

- c) Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

### **SIN 33411 Purchasing of New Electronic Equipment**

33411 Includes desktop, laptop, tablet computers (including rugged), servers, storage equipment, hyperconverged integrated systems, supercomputers, routers, switches and other communications equipment, IT security equipment (hardware based firewalls), audio and video (AV) equipment, public address systems, monitors/displays, sensors and other Internet of Things (IOT) devices, printers and Multi-Function Device (MFD) equipment, broadcast band radio, two-way radio (LMR), microwave radio equipment, satellite communications equipment, radio transmitters/receivers (airborne), radio navigation equipment/antennas, optical/imaging systems, and associated peripherals required for operations (such as controllers, connectors, cables, drivers, adapters, etc., ancillary installation of any equipment purchased.

NOTE: Subject to Cooperative Purchasing

FSC/PSC Code : 7010

### **SIN 511210 Software Licenses**

Includes both term and perpetual software licenses and maintenance. Includes operating system software, application software, EDI translation and mapping software, enabled email message based applications, Internet software, database management applications, and other software.

Term Licenses. The word "Term" is defined in this Solicitation as "a limited period of time". Term Software Licenses have a limited duration and are not owned in perpetuity. Unless Offerors provide an option for converting Term licenses into perpetual licenses, users lose the right to use these licenses upon the end of the term period. This SIN is NOT Infrastructure as a Service (IaaS), Platform as a Service (PaaS), or Software as a Service (SaaS) as defined in SIN 518210C - Cloud and Cloud-Related IT Professional Services. Term Software Licenses are distinct from Electronic Commerce and Subscription Services (SIN 54151ECOM).

Perpetual Licenses. The word "perpetual" is defined in this Solicitation as "continuing forever, everlasting, valid for all time".

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, online help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for users self-diagnostics.

Software Maintenance as a product is billed at the time of purchase.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance services under SIN 54151 Software Maintenance Services.

NOTE: Subject to Cooperative Purchasing

FSC/PSC Code: 7030

## **SIN 54151 Software Maintenance Services**

54151 Software maintenance services creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance services includes person-to-person communications regardless of the medium used to communicate: telephone support, online technical support, customized support, and/or technical expertise which are charged commercially.

NOTE: Subject to Cooperative Purchasing

FSC/PSC Code : J070

## **SIN 54151S Information Technology Professional Services**

54151S IT Professional Services and/or labor categories for database planning and design; systems analysis, integration, and design; programming, conversion and implementation support; network services, data/records management, and testing.

NOTE: Subject to Cooperative Purchasing

FSC/PSC Code : D399

## **SIN 811212 Computer and Office Machine Repair and Maintenance**

811212 Maintenance, Repair Service, and Repair Parts/Spare Parts for Government-Owned General Purpose Commercial Information Technology Equipment, Radio/Telephone Equipment. (After Expiration of Guarantee/Warranty Provisions and/or When Required Service Is Not Covered by Guarantee/Warranty Provisions) and for Leased Equipment

NOTE: Subject to Cooperative Purchasing

FSC/PSC Code : J070

## **SIN OLM      Order-Level Materials (OLM)**

OLMs are supplies and/or services acquired in direct support of an individual task or delivery order placed against a Schedule contract or BPA. OLM pricing is not established at the Schedule contract or BPA level, but at the order level. Since OLMs are identified and acquired at the order level, the ordering contracting officer (OCO) is responsible for making a fair and reasonable price determination for all OLMs.

OLMs are procured under a special ordering procedure that simplifies the process for acquiring supplies and services necessary to support individual task or delivery orders placed against a Schedule contract or BPA. Using this new procedure, ancillary supplies and services not known at the time of the Schedule award may be included and priced at the order level.

OLM SIN-Level Requirements/Ordering Instructions:

OLMs are:

- Purchased under the authority of the FSS Program
- Unknown until an order is placed
- Defined and priced at the ordering activity level in accordance with GSAR clause 552.238-115 Special Ordering

Procedures for the Acquisition of Order-Level Materials. (Price analysis for OLMs is not conducted when awarding the FSS contract or FSS BPA; therefore, GSAR 538.270 and 538.271 do not apply to OLMs)

- Only authorized for use in direct support of another awarded SIN.
- Only authorized for inclusion at the order level under a Time-and-Materials (T&M) or Labor-Hour (LH) Contract Line Item Number (CLIN)
- Subject to a Not To Exceed (NTE) ceiling price
- 

OLMs are not:

- "Open Market Items"
- Items awarded under ancillary supplies/services or other direct cost (ODC) SINs (these items are defined, priced, and awarded at the FSS contract level)
- 

OLM Pricing:

- Prices for items provided under the Order-Level Materials SIN must be inclusive of the Industrial Funding Fee (IFF).
- The value of OLMs in a task or delivery order, or the cumulative value of OLMs in orders against a FSS BPA awarded under an FSS contract, cannot exceed 33.33%.

NOTE: When used in conjunction with a Cooperative Purchasing eligible SIN, this SIN is Cooperative Purchasing Eligible.

## CONTRACTOR INFORMATION

1a. TABLE OF AWARDED SPECIAL ITEM NUMBERS (SINs)

SIN 33411	Purchase of New Electronic Equipment
SIN 811212	Computer and Office Machine Repair and Maintenance
SIN 511210	Software Licenses
SIN 54151	Software Maintenance Services
SIN 54151S	IT Professional Services
SIN OLM	Order Level Materials

1b. LOWEST PRICED MODEL NUMBER AND PRICE FOR EACH SIN:

SIN 33411	1000019570 - \$13.22
SIN 811212	1000019646 - \$63.62
SIN 511210	1000043861 - \$43.38
SIN 54151	P-RFSERVICE-ASP - \$1,611.08
SIN 54151S	Help Desk Analyst - \$81.28

1c. HOURLY RATES: See page 26.

2. MAXIMUM ORDER:

SIN 33411	\$500,000
SIN 811212	\$500,000
SIN 511210	\$500,000
SIN 54151	\$500,000
SIN 54151S	\$500,000
SIN OLM	\$250,000

3. MINIMUM ORDER: \$100

4. GEOGRAPHIC COVERAGE: Domestic

5. POINT(S) OF PRODUCTION: Contractor's Address

6. DISCOUNT FROM INTERNAL RATE:

The GSA Net Prices published on the GSA Advantage website reflect the fully burdened price. The negotiated discount has been applied and the Industrial Funding Fee has been added.

7. QUANTITY DISCOUNT: Additional 0.05% on single contracts greater than \$150,000

8. PROMPT PAYMENT TERMS: Net 30 Days

9. GOVERNMENT PURCHASE CARD:

Accepted for sales at or below the micro-purchase threshold.

Accepted for purchases above the micro-purchase threshold.

10. FOREIGN ITEMS: None
- 11a. TIME OF DELIVERY: Negotiated at the Task Order Level with the Ordering Activity.
- 11b. EXPEDITED DELIVERY:  
Please contact the Contractor for availability and rates.
- 11c. OVERNIGHT AND 2-DAY DELIVERY:  
Please contact the Contractor for availability and rates.
- 11d. URGENT REQUIREMENTS:  
Agencies can contact the Contractor's representative to affect a faster delivery.  
Customers are encouraged to contact the contractor for the purpose of requesting accelerated delivery.
12. FOB POINT:  
SIN 132-32 and SIN 132-33 Destination- CONUS, AK, HI, PR if delivered electronically  
FOB Origin CONUS, AK, HI, PR if not delivered electronically  
SINs 132-8 and 132-12 Destination - CONUS; Origin - AK, HI, PR  
SIN 132-51 Destination
- 13a. ORDERING ADDRESS:  
William Mellone  
228 East 45<sup>th</sup> Street 4<sup>th</sup> Floor South  
New York, NY 10017  
Phone: 212-710-5082  
Fax: 212-710-5099  
Email: BMellone@Atechnologies.com
- 13b. ORDERING PROCEDURES:  
Ordering activities shall use the ordering procedures described in Federal Acquisition Regulation 8.405-3 when placing an order or establishing a BPA for supplies or services. The ordering procedures, information on Blanket Purchase Agreements (BPA's) and a sample BPA can be found at the GSA/FSS Schedule Homepage ([fss.gsa.gov/schedules](http://fss.gsa.gov/schedules)).
14. PAYMENT ADDRESS:  
William Mellone  
228 East 45<sup>th</sup> Street 4<sup>th</sup> Floor South  
New York, NY 10017
15. WARRANTY PROVISION: Standard Commercial Warranty
16. EXPORT PACKING CHARGES: Not Applicable
17. TERMS AND CONDITIONS OF GOVERNMENT PURCHASE CARD ACCEPTANCE:

Please contact the Contractor for terms and conditions of acceptance.

18. TERMS AND CONDITIONS OF RENTAL, MAINTENANCE, AND REPAIR (IF APPLICABLE):

No equipment rentals. SIN 511210 Terms and conditions apply.

19. TERMS AND CONDITIONS OF INSTALLATION:

20. TERMS AND CONDITIONS OF REPAIR PARTS INDICATING DATE OF PARTS PRICE LISTS AND ANY DISCOUNTS FROM LIST PRICES (IF AVAILABLE):

Not Applicable

20a. TERMS AND CONDITIONS FOR ANY OTHER SERVICES: None

21. LIST OF SERVICE AND DISTRIBUTION POINTS: Not Applicable

22. LIST OF PARTICIPATING DEALERS: None

23. PREVENTIVE MAINTENANCE : None

24a. SPECIAL ATTRIBUTES SUCH AS ENVIRONMENTAL ATTRIBUTES (e.g. recycled content, energy efficiency, and/or reduced pollutants): None

24b. SECTION 508 COMPLIANCE FOR ELECTRONIC and INFORMATION TECHNOLOGY:

Not Applicable

25. DUNS NUMBER: 150736700

26. NOTIFICATION REGARDING REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE: Contractor has an Active Registration in the SAM database.

27. INSTALLATION SERVICE PRICING: Not Applicable

28. EQUIPMENT MAINTENANCE SERVICES: Maintenance plans offered by contractor - see pricelist.



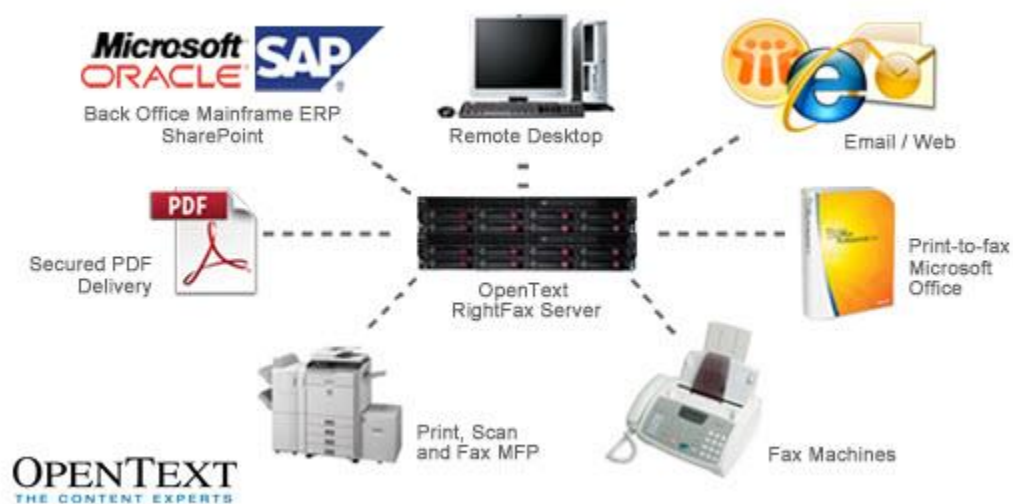


## ABOUT RIGHTFAX

STREAMLINE GOVERNMENT DOCUMENT-DRIVEN PROCESSES AND DELIVERY WITH OPENTEXT RIGHTFAX FAX SERVER

### Q WHAT IS RIGHTFAX?

A RightFax is an enterprise fax and e-document delivery solution for corporate and government entities looking for a scalable, secure, and reliable platform. RightFax is recognized as the #1 Fax Server solution in the U.S. because of its expansive integration options, flexibility, and reliability. RightFax not only, supports FoIP (Fax over IP) and virtualization, but also, supports a distributed architecture that allows enterprises to share workload and data across multiple servers and/or locations. Certain versions of RightFax are VPAT-Certified and DoD JITC Certified.



### Q WHO IS ADVANTAGE TECHNOLOGIES, INC.?

- A ■ Advantage Technologies Inc. is GSA certified and approved vendor for RightFax software, support and installation. *Contract GS-35F-0435Y*
- Over 20 years experience with RightFax Fax Servers and Document Delivery solutions.
- #1 RightFax Partner in North America, 2011 OpenText Partner of the Year.
- Currently working with Local, State, and Federal entities including the U.S. Military.

- Classified as SBE, Minority Owned.

#### KEY BENEFITS - RIGHTFAX FOR GOVERNMENT AGENCIES

- RightFax is the recognized *market leader*- provides the most trusted method of sending and receiving millions of legal and regulatory documents every year for government agencies all over the world.
- RightFax provides tamper resistant document delivery and receipt, as well as encrypted and certified delivery options.
- Centralized Management - Centralized administration tools allow administrators to setup, configure, and manage fax services individually or globally.
- Fax archival- Record inbound and outbound faxes for audit trail and to support security and regulatory compliance.
- Flexible Email integration options for on-premises and cloud solutions.
- Integration with MFPs to consolidate faxing, printing, scanning and copying on a single device.
- Affordable, scalable solution that leverages existing infrastructure.
- Integrates with existing legacy telephony and can leverage existing VoIP network with Fax over IP (FoIP) integration.
- Integration tools including Application Program Interface (APIs) and embedded codes allow for easy and rapid customization.

#### SECURITY

- VPAT-Certified and DoD JITC Certified (certain configurations)
- Secure Binary File Transfer (BFT) feature disallows T.434 file transfer between fax boards
- Extensive dialing rules provide “rules and restrictions” for fax sending- enabling precise control over outbound faxing.
- NT security authentication- Take advantage of the network's established Windows security system
- Do not dial- Verify and control outgoing fax calls to assist with fax spam blocking and provide tighter fax security
- Adjustable bandwidth- Adjust channels automatically to send and/or receive during peak intervals to control fax traffic volume on a group-wide basis.
- Comprehensive administrative and reporting tools

Federal agencies can obtain information about a RightFax Solution by Advantage Technologies by contacting Jim Marrone directly at (212)-710-5091 or visiting us at <https://atechnologies.com/solutions/opentext-rightfax-for-government-gsa-contract.html>

## ABOUT FAXPULSE BUSINESS INTELLIGENCE

The FaxPulse Business Intelligence (BI) suite is a unique platform developed by Advantage Technologies that combines analytics gathering with monitoring and alerting. It provides a single location where you can simply “click and go” to get intel on the state of your RightFax environment. If RightFax is essential for your organization, FaxPulse is the most comprehensive enterprise solution available for monitoring and reporting on your fax communications in a customizable, secure way that meets compliance standards.



### FaxPulse BI helps you:

- **Monitor**— track server status, queue depth and channel usage level; monitor SLAs; and view trends/historical data
- **Alert**— receive timely notifications whenever a metric or KPI exceeds your specified threshold
- **Simplify**— collect data from multiple RightFax systems using one platform
- **Maintain**— identify and resolve issues before they escalate into production-affecting problems
- **Report**— present accurate metrics on fax server traffic, history and transmission details through centralized, customizable reporting

Federal agencies can obtain information about a RightFax Solution by Advantage Technologies by contacting Jim Marrone directly at (212)-710-5091 or visiting us at

<https://atechnologies.com/solutions/opentext-rightfax-for-government-gsa-contract.html>

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL PURPOSE COMMERCIAL  
INFORMATION TECHNOLOGY NEW  
EQUIPMENT(SPECIAL ITEM NUMBER 33411)**

**1. MATERIAL AND WORKMANSHIP**

All equipment furnished hereunder must satisfactorily perform the function for which it is intended.

**2. ORDER**

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order. For credit card orders and BPAs, telephone orders are permissible.

**3. TRANSPORTATION OF EQUIPMENT**

FOB DESTINATION. Prices cover equipment delivery to destination, for any location within the geographic scope of this contract.

**4. INSTALLATION AND TECHNICAL SERVICES**

a. INSTALLATION. When the equipment provided under this contract is not normally self- installable, the Contractor's technical personnel shall be available to the ordering activity, at the ordering activity's location, to install the equipment and to train ordering activity personnel in the use and maintenance of the equipment. The charges, if any, for such services are listed below, or in the price schedule:

b. INSTALLATION, DEINSTALLATION, REINSTALLATION. The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, de-installation, and reinstallation services under SIN 33411.

c. OPERATING AND MAINTENANCE MANUALS. The Contractor shall furnish the ordering activity with one (1) copy of all operating and maintenance manuals which are normally provided with the equipment being purchased.

**5. INSPECTION/ACCEPTANCE**

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any equipment that has been

tendered for acceptance. The ordering activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

## **6. WARRANTY**

a. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

d. If inspection and repair of defective equipment under this warranty will be performed at the Contractor's plant, the address is as follows:

## **7. PURCHASE PRICE FOR ORDERED EQUIPMENT**

The purchase price that the ordering activity will be charged will be the ordering activity purchase price in effect at the time of order placement, or the ordering activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less.

## **8. RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

## **9. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT**

When an ordering activity determines that Information Technology equipment will be replaced, the ordering activity shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

**TERMS AND CONDITIONS APPLICABLE TO MAINTENANCE, REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS FOR GOVERNMENT-OWNED GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT, RADIO/TELEPHONE EQUIPMENT, (AFTER EXPIRATION OF GUARANTEE/WARRANTY PROVISIONS AND/OR WHEN REQUIRED SERVICE IS NOT COVERED BY GUARANTEE/WARRANTY PROVISIONS) AND FOR LEASED EQUIPMENT (SPECIAL ITEM NUMBER 811212)**

**1. SERVICE AREAS**

- a. The maintenance and repair service rates listed herein are applicable to any ordering activity location within a (\*\*insert miles\*\*) mile radius of the Contractor's service points. If any additional charge is to apply because of the greater distance from the Contractor's service locations, the mileage rate or other distance factor shall be negotiated at the Task Order level.
- b. When repair services cannot be performed at the ordering activity installation site, the repair services will be performed at the Contractor's plant(s) listed below:

**2. MAINTENANCE ORDER**

- a. Agencies may use written orders, EDI orders, credit card orders, or BPAs, for ordering maintenance under this contract. The Contractor shall confirm orders within fifteen (15) calendar days from the date of receipt, except that confirmation of orders shall be considered automatic for renewals for maintenance (Special Item Number 132-12). Automatic acceptance of order renewals for maintenance service shall apply for machines which may have been discontinued from use for temporary periods of time not longer than 120 calendar days. If the order is not confirmed by the Contractor as prescribed by this paragraph, the order shall be considered to be confirmed by the Contractor.
- b. The Contractor shall honor orders for maintenance for the duration of the contract period or a lesser period of time, for the equipment shown in the pricelist. Maintenance service shall commence on a mutually agreed upon date, which will be written into the maintenance order. Maintenance orders shall not be made effective before the expiration of any applicable maintenance and parts guarantee/warranty period associated with the purchase of equipment. Orders for maintenance service shall not extend beyond the end of the contract period.
- c. Maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice, or shorter notice when agreed to by the Contractor; such notice to become effective thirty (30) calendar days from the date on the notification. However, the ordering activity may extend the original discontinuance date upon written notice to the Contractor, provided that such notice is furnished at least ten (10) calendar days prior to the original discontinuance date.
- d. Annual Funding. When annually appropriated funds are cited on a maintenance order, the period of maintenance shall automatically expire on September 30th of the contract period, or at the end of the contract period, whichever occurs first. Renewal of a maintenance order citing the new appropriation shall be required, if maintenance is to continue during any remainder of the contract period.
- e. Cross-year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month, fiscal year period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- f. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of maintenance service, if maintenance is to be terminated at that time. Orders for continued maintenance will be required if maintenance is to be continued during the subsequent period.

### **3. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS**

- a. Agencies may use written orders, EDI orders, credit card orders, blanket purchase agreements (BPAs), or small order procedures for ordering repair service and/or repair parts/spare parts under this contract. Orders for repair service shall not extend beyond the end of the contract period.
- b. When repair service is ordered, only one chargeable repairman shall be dispatched to perform repair service, unless the ordering activity agrees, in advance, that additional repair personnel are required to effect repairs.

### **4. LOSS OR DAMAGE**

When the Contractor removes equipment to his establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the equipment is removed from the ordering activity installation, until the equipment is returned to such installation.

### **5. SCOPE**

- a. The Contractor shall provide maintenance for all equipment listed herein, as requested by the ordering activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under maintenance service shall be in good operating condition. (1) In order to determine that the equipment is in good operating condition, the equipment shall be subject to inspection by the Contractor, without charge to the ordering activity.  
(2) Costs of any repairs performed for the purpose of placing the equipment in good operating condition shall be borne by the Contractor, if the equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.  
(3) If the equipment was not under the Contractor's responsibility, the costs necessary to place the equipment in proper operating condition are to be borne by the ordering activity, in accordance with the provisions of Special Item Number 811212 (or outside the scope of this contract).

### **6. RESPONSIBILITIES OF THE ORDERING ACTIVITY**

- a. Ordering activity personnel shall not perform maintenance or attempt repairs to equipment while such equipment is under the purview of a maintenance order, unless agreed to by the Contractor.
- b. Subject to security regulations, the ordering activity shall permit access to the equipment which is to be maintained or repaired.
- c. If the Ordering Activity desires a factory authorized/certified service personnel then this should be clearly stated in the task or delivery order.

### **7. RESPONSIBILITIES OF THE CONTRACTOR**

- a. For equipment not covered by a maintenance contract or warranty, the Contractor's repair service personnel shall complete repairs as soon as possible after notification by the ordering activity that service is required. Within the service areas, this repair service should normally be done within 4 hours after notification.
- b. If the Ordering Activity task or delivery order specifies a factory authorized/certified service personnel then the Contractor is obligated to provide such a factory authorized/certified service personnel for the equipment to be repaired or serviced, unless otherwise agreed to in advance between the Agency and the Contractor.

## **8. MAINTENANCE RATE PROVISIONS**

a. The Contractor shall bear all costs of maintenance, including labor, parts, and such other expenses as are necessary to keep the equipment in good operating condition, provided that the required repairs are not occasioned by fault or negligence of the ordering activity.

### **b. REGULAR HOURS**

The basic monthly rate for each make and model of equipment shall entitle the ordering activity to maintenance service during a mutually agreed upon nine (9) hour principal period of maintenance, Monday through Friday, exclusive of holidays observed at the ordering activity location.

### **c. AFTER HOURS**

Should the ordering activity require that maintenance be performed outside of Regular Hours, charges for such maintenance, if any, will be specified in the pricelist. Periods of less than one hour will be prorated to the nearest quarter hour.

### **d. TRAVEL AND TRANSPORTATION**

If any charge is to apply, over and above the regular maintenance rates, because of the distance between the ordering activity location and the Contractor's service area, the charge will be negotiated at the Task Order level.

### **e. QUANTITY DISCOUNTS**

Quantity discounts from listed maintenance service rates for multiple equipment owned and/or leased by a ordering activity are indicated below:

Quantity Range Discounts

Units %

Units %

Units %

## **9. REPAIR SERVICE RATE PROVISIONS**

a. **CHARGES.** Charges for repair service will include the labor charge, computed at the rates set forth below, for the time during which repairmen are actually engaged in work, and, when applicable, the charge for travel or transportation.

b. **MULTIPLE MACHINES.** When repairs are ordered by a ordering activity on two or more machines located in one or more buildings within walking distance of each other, the charges will be computed from the time the repairman commences work on the first machine, until the work is completed on the last machine. The time required to go from one machine to another, or from one building to another, will be considered actual work performance, and chargeable to the ordering activity, provided the time consumed in going between machines (or buildings) is reasonable.

### **c. TRAVEL OR TRANSPORTATION**

(1) **AT THE CONTRACTOR'S SHOP** (a) When equipment is returned to the Contractor's shop for adjustments or repairs which are not covered by the guarantee/warranty provision, the cost of transportation, packing, etc., from the ordering activity location to the Contractor's plant, and return to the ordering activity location, shall be borne by the ordering activity.

(b) The ordering activity should not return defective equipment to the Contractor for adjustments and repairs or replacement without his prior consultation and instruction.



(2) AT THE ORDERING ACTIVITY LOCATION (Within Established Service Areas)

When equipment is repaired at the ordering activity location, and repair service rates are established for service areas or zones, the listed rates are applicable to any ordering activity location within such service areas or zones. No extra charge, time, or expense will be allowed for travel or transportation of repairmen or machines to or from the ordering activity office; such overhead is included in the repair service rates listed.

(3) AT THE ORDERING ACTIVITY LOCATION (Outside Established Service Areas) (a) If repairs are to be made at the ordering activity location, and the location is outside the service area as shown in paragraph 1.a, the repair service and mileage rates negotiated per subparagraphs 1.a and 8.d will apply.

(b) When the overall travel charge computed at the above mileage rate is unreasonable (considering the time required for travel, actual and necessary transportation costs, and the allowable ordering activity per diem rate for each night the repairman is required to remain overnight at the ordering activity location), the ordering activity shall have the option of reimbursing the Contractor for actual costs, provided that the actual costs are reasonable and allowable. The Contractor shall furnish the ordering activity with

a report of travel performed and related expenses incurred. The report shall include departure and arrival dates, times, and the applicable mode of travel.

d. LABOR RATES (1) REGULAR HOURS

The Regular Hours repair service rates listed herein shall entitle the ordering activity to repair service during the period 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of holidays observed at the ordering activity location. There shall be no additional charge for repair service which was requested during Regular Hours, but performed outside the Regular Hours defined above, at the convenience of the Contractor.

(2) AFTER HOURS

When the ordering activity requires that repair service be performed outside the Regular Hours defined above, except Sundays and Holidays observed at the ordering activity location, the After Hours repair service rates listed herein shall apply. The Regular Hours rates defined above shall apply when repair service is requested during Regular Hours, but performed After Hours at the convenience of the Contractor.

(3) SUNDAYS AND HOLIDAYS

When the ordering activity requires that repair service be performed on Sundays and Holidays observed at the ordering activity location, the Sundays and Holidays repair service rates listed herein shall apply. When repair service is requested to be performed during Regular Hours and/or After Hours, but is performed at the convenience of the Contractor on Sundays or Holidays observed at the ordering activity location, the Regular Hours and/or After Hours repair service rates, as applicable, shall apply.

10. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

All parts, furnished as spares or as repair parts in connection with the repair of equipment, unless otherwise indicated in this pricelist, shall be new, standard parts manufactured by the equipment

manufacturer. All parts shall be furnished at prices indicated in the Contractor's commercial pricelist dated, at a discount of % from such listed prices.

**11. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS**

**a. REPAIR SERVICE**

All repair work will be guaranteed/warranted for a period of 1 year in accordance with manufacturer's warranty.

**b. REPAIR PARTS/SPARE PARTS**

All parts, furnished either as spares or repairs parts will be guaranteed/warranted for a period of 1 year in accordance with manufacturer's warranty.

**12. INVOICES AND PAYMENTS** a. Maintenance Service (1) Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

(2) Payment for maintenance service of less than one month's duration shall be prorated at 1/30th of the monthly rate for each calendar day.

**b. Repair Service and Repair Parts/Spare Parts**

Invoices for repair service and parts shall be submitted by the Contractor as soon as possible after completion of work. Payment under blanket purchase agreements will be made quarterly or monthly, except where cash payment procedures are used. Invoices shall be submitted separately to each ordering activity office ordering services under the contract. The cost of repair parts shall be shown as a separate item on the invoice, and shall be priced in accordance with paragraph #10, above. PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

**TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210), PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210) AND MAINTENANCE AS A SERVICE (SPECIAL ITEM NUMBER 54151) OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE**

**1. INSPECTION/ACCEPTANCE**

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

**2. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)**

The Contractor shall provide all Enterprise User License Agreements in an editable Microsoft Office (Word) format.

**3. GUARANTEE/WARRANTY**

- a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.
- b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

\* Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH ABOVE, OPEN TEXT AND ITS SUPPLIERS PROVIDE THE PRODUCT "AS IS" AND WITH ALL FAULTS. OPEN TEXT AND ITS SUPPLIERS HEREBY DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, ARISING BY LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, TITLE AND NONINFRINGEMENT, WITH REGARD TO THE PRODUCT. WITHOUT LIMITING THE FOREGOING, OPEN TEXT DOES NOT WARRANT THAT THE PRODUCT WILL BE FREE OF BUGS, ERRORS, VIRUSES OR OTHER DEFECTS.

\* Disclaimer of Certain Damages. IN NO EVENT WILL OPEN TEXT OR ITS SUPPLIERS BE LIABLE FOR THE COST OF COVER OR FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES OR LIABILITIES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO LOSS OF DATA, INFORMATION, REVENUE, PROFIT OR BUSINESS) ARISING OUT OF OR RELATING TO THE USE OR INABILITY TO USE THE PRODUCT OR OTHERWISE UNDER OR IN CONNECTION WITH THIS EULA OR THE PRODUCT, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY EVEN IF OPEN TEXT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**4. TECHNICAL SERVICES**

The Contractor, with additional charge to the Government, shall provide a hot line technical support number for the purpose of providing user assistance and guidance in support of the software. For Support please refer to the Support handbook available at [www.atechnologies.com/support](http://www.atechnologies.com/support).

## **5. SOFTWARE MAINTENANCE**

- a. Software maintenance as it is defined: (select software maintenance type) :

\_\_\_\_\_ 1. Software Maintenance as a Product (SIN 511210)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

\_\_\_X\_\_\_ 2. Software Maintenance as a Service (SIN 54151)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

- b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

## **6. PERIODS OF TERM LICENSES (SIN 132-32) AND MAINTENANCE (SIN 54151)**

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Term licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice to the Contractor.

c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.

d. Cross-Year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

e. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

## **7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE (not applicable)**

a. The ordering activity may convert term licenses to perpetual licenses for any or all software at any time following acceptance of software. At the request of the ordering activity the Contractor shall furnish, within ten (10) calendar days, for each software product that is contemplated for conversion, the total amount of conversion credits which have accrued while the software was on a term license and the date of the last update or enhancement.

b. Conversion credits which are provided shall, within the limits specified, continue to accrue from one contract period to the next, provided the software remains on a term license within the ordering activity.

c. The term license for each software product shall be discontinued on the day immediately preceding the effective date of conversion from a term license to a perpetual license.

d. The price the ordering activity shall pay will be the perpetual license price that prevailed at the time such software was initially ordered under a term license, or the perpetual license price prevailing at the time of conversion from a term license to a perpetual license, whichever is the less, minus an amount equal to \_\_\_\_\_% of all term license payments during the period that the software was under a term license within the ordering activity.

## **8. TERM LICENSE CESSATION (not applicable)**

a. After a software product has been on a continuous term license for a period of \_\_\_\_\_\* months, a fully paid-up, non-exclusive, perpetual license for the software product shall automatically accrue to the ordering activity. The period of continuous term license for automatic accrual of a fully paid-up perpetual license does not have to be achieved during a particular fiscal year; it is a written Contractor commitment which continues to be available for software that is initially ordered under this contract, until a fully paid-up perpetual license accrues to the ordering activity. However, should the term license of the software be discontinued before the specified period of the continuous term license has been satisfied, the perpetual license accrual shall be forfeited.

b. The Contractor agrees to provide updates and maintenance service for the software after a perpetual license has accrued, at the prices and terms of Special Item Number I32-34, if the licensee elects to order such services. Title to the software shall remain with the Contractor.

**9. UTILIZATION LIMITATIONS - (SIN 511210 AND SIN 54151)**

a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.

b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:

(1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.

(2) Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. The software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering activity's database. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.

(3) Except as is provided in paragraph 8.b(2) above, the ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the ordering activity to use software, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.

(4) The ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

(5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including

this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

**10. SOFTWARE CONVERSIONS - (SIN 511210) (not applicable)**

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system , or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. Under a term license (132-32), conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

**11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY**

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

**12. RIGHT-TO-COPY PRICING**

The Contractor shall insert the discounted pricing for right-to-copy licenses.

**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT) PROFESSIONAL SERVICES  
(SPECIAL ITEM NUMBER 54151S)**

**1. SCOPE**

- a. The prices, terms and conditions stated under Special Item Number 54151S Information Technology Professional Services IT Services within the scope of this Multiple Award Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

**2. PERFORMANCE INCENTIVES**

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract in accordance with this clause.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

**3. ORDER**

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available. b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

**4. PERFORMANCE OF SERVICES**

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.
- c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.



## **5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)**

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-
  - (1) Cancel the stop-work order; or
  - (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
  - (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
  - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

## **6. INSPECTION OF SERVICES**

The Inspection of Services–Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time-and-Materials and Labor-Hour (JAN 1986) (Deviation – May 2003) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

## **7. RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

## **8. RESPONSIBILITIES OF THE ORDERING ACTIVITY**

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT Services.

## **9. INDEPENDENT CONTRACTOR**

All IT Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

## **10. ORGANIZATIONAL CONFLICTS OF INTEREST**

### **a. Definitions:**

“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

- b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

## **11. INVOICES**

The Contractor, upon completion of the work ordered, shall submit invoices for IT services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

## **12. PAYMENTS**

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), (Alternate II – Feb 2002) (Deviation – May 2003) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), (Alternate II – Feb 2002) (Deviation – May 2003)) applies to labor-hour orders placed under this contract. 52.216-31(Feb 2007) Time-and- Materials/Labor-Hour

Proposal Requirements—Commercial Item Acquisition As prescribed in 16.601(e)(3), insert the following provision:

- (a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.
- (b) The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—
  - (1) The offeror;
  - (2) Subcontractors; and/or
  - (3) Divisions, subsidiaries, or affiliates of the offeror under a common control.

### 13. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request.

### 14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

### 15. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

### 16. DESCRIPTION OF IT SERVICES AND PRICING

#### LABOR CATEGORY PRICING/DESCRIPTIONS

Labor Category	Hourly Rate
Software Engineer	\$93.70
Help Desk Analyst	\$81.28
Senior RightFax Engineer	\$232.59

Commercial Job Title: Software Engineer	
Minimum/General Experience	Six (6) years of experience successfully performing any combination of: software and systems engineering, network services, application conversion and implementation support, client/server migration, database planning and design, independent verification and validation, system prototyping, hardware analysis and integration, system acquisition support, geographical information systems, systems analysis and design, system prototyping, test and evaluation design support, and systems integration.

Functional Responsibility	<p>Designs, develops, and modifies complex software programs. Develops logic and writes code for all modules; tests, modifies and debugs software. They are proficient in several programming languages and in developing web based applications.</p> <p>Designs, develops, and modifies complex software programs. Develops logic and writes code for all modules; tests, modifies and debugs software. They are proficient in several programming languages and in developing web</p>
Minimum Education	Bachelor's degree with course work in a related discipline. An Associate's degree and four (4) years experience or seven (7) years of relevant experience may be substituted for a Bachelor's degree.
<b>Commercial Job Title: Help Desk Specialist</b>	
Minimum/General Experience	Up to four (4) years of experience of client interaction providing help desk support for web-based applications.
Functional Responsibility	Provides support to end users on a variety of issues. Identifies, researches, and resolves technical problems. Responds to telephone calls, email and personnel requests for technical support. Documents, tracks and monitors the problem to ensure a timely resolution. Has knowledge of commonly-used concepts, practices, and procedures within a particular field. Relies on instructions and pre-established guidelines to perform the functions of the job. Works under immediate supervision. Primary job functions do not typically require exercising independent judgment.
Minimum Education	Bachelor's degree with course work in a related discipline. An Associates degree and 2 years experience or 3+ years of relevant experience.
<b>Commercial Job Title: Senior RightFax Engineer</b>	
Minimum/General Experience	Ten (10) years of experience successfully performing any combination of: VoIP/FoIP projects, Network design /implementation and systems engineering, network services, implementation support, client/server migration, systems analysis and design, systems integration, and deployment.
Functional Responsibility	Technology liaison working with project manager or client's IT team to successfully integrate RightFax into clients IT infrastructure. Provides advice in design and implementation of specialized aspects of technical architecture. Integrates state of the art technology for specialized functions with functional requirements to optimize solution for the customer. Provides advice based on academic understanding and years of experience.
Minimum Education	Bachelor's degree in computer science, information science, information systems or related discipline is required. An Associate's degree and ten years experience or twelve years of relevant experience may be substituted for a Bachelor's degree. Certified by manufacturer as Certified RightFax Engineer, including required testing.

## OPEN TEXT SOLUTION OFFERINGS

SIN	MANUFACTURER	MFR PART NO	PRODUCT NAME	UOI	GSA OFFER PRICE (inclusive of the .75% IFF)
<b>RightFax-Servers</b>					
511210 Perpetual	OpenText	1000021377	RightFax 16.x Business Server	each	\$1,730.88
511210 Perpetual	OpenText	1000021437	RightFax 16.x Enterprise Server	each	\$4,593.65
511210 Perpetual	OpenText	1000021485	RightFax 16.x Enterprise Suite	each	\$8,237.18
511210 Perpetual	OpenText	1000021450	RightFax 16.x Enterprise Integration Server	each	\$17,345.99
<b>Channels</b>					
511210 Perpetual	OpenText	1000021282	RightFax Additional Document Delivery Channel	each	\$776.72
511210 Perpetual	OpenText	1000021402	RightFax Additional Document DeliveryChannel - FoIP Enabled	each	\$1,254.17
511210 Perpetual	OpenText	1000043854	RightFax Secure FoIP Channel	each	\$1,340.92
511210 Perpetual	OpenText	1000043862	RightFax Secure FoIP Upgrade from FoIP Enabled Fax Channel	each	\$86.75
511210 Perpetual	OpenText	1000021413	FoIP Enable an Existing RightFax Document Delivery Channel	each	\$477.54
<b>Modules</b>					
511210 Perpetual	OpenText	1000021288	RightFax Connector for Microsoft Exchange	each	\$1,644.13
511210 Perpetual	OpenText	1000021286	RightFax Connector for Lotus Notes	each	\$1,644.13

511210 Perpetual	OpenText	1000021290	RightFax PDF Module	each	\$1,644.13
511210 Perpetual	OpenText	1000020836	RightFax Searchable PDF Module	each	\$520.50
511210 Perpetual	OpenText	1000021512	RightFax PDF Module and Searchable PDF Module	each	\$2,164.63
511210 Perpetual	OpenText	1000021014	RightFax Bar Code Routing Module	each	\$1,644.13
511210 Perpetual	OpenText	1000021294	RightFax Integration Module	each	\$8,237.18
511210 Perpetual	OpenText	1000021298	RightFax Business Integration Module	each	\$2,598.39
511210 Perpetual	OpenText	1000021296	RightFax Connector for SAP	each	\$7,369.67
511210 Perpetual	OpenText	1000021156	RightFax SecureDocs Module	each	\$1,644.13
511210 Perpetual	OpenText	1000021300	RightFax Shared Services Module	each	\$1,644.13
511210 Perpetual	OpenText	1000020448	Fax Server Connector 2.0 for SharePoint Server	each	\$1,644.13
511210 Perpetual	OpenText	1000020424	RightFax XML Generator Module	each	\$1,644.13
511210 Perpetual	OpenText	1000020317	RightFax Encryption Module	each	\$4,333.40
511210 Perpetual	OpenText	1000020337	RightFax Encryption Module, Collective Node License	each	No Charge Included w/License
511210 Perpetual	OpenText	1000043829	RightFax Archive - Production	each	\$9,542.57
511210 Perpetual	OpenText	1000043837	RightFax Archive - Collective Node License	each	No Charge Included w/License
511210 Perpetual	OpenText	1000021127	RightFax Image High-Availability Module	each	\$8,237.18
511210 Perpetual	OpenText	1000021129	RightFax Image High-Availability Module, Collective Node License	each	No Charge Included w/License

511210 Perpetual	OpenText	1000020315	RightFax E-Commerce License	each	\$10,843.83
511210 Perpetual	OpenText	1000021060	RightFax eDocs Connector	each	\$4,333.40
<b>Redundant/ Test-Right Fax</b>					
511210 Perpetual	OpenText	1000020339	RightFax Encryption Module Redundant	each	\$2,167.11
511210 Perpetual	OpenText	1000021134	RightFax Image High-Availability Module, Redundant	each	\$4,118.59
511210 Perpetual	OpenText	1000021381	RightFax 16.x Business Server - Redundant	each	\$865.85
511210 Perpetual	OpenText	1000021480	RightFax 16.x Enterprise Server – Redundant	each	\$2,297.65
511210 Perpetual	OpenText	1000021495	RightFax 16.x Enterprise Suite – Redundant	each	\$4,119.42
511210 Perpetual	OpenText	1000021463	RightFax 16.x Enterprise Integration Server - Redundant	each	\$8,673.41
511210 Perpetual	OpenText	1000020410	Fax Server Connector for FileNet P8 (Redundant) - License	each	\$3,902.13
511210 Perpetual	OpenText	1000021310	RightFax Connector for Microsoft Exchange - Redundant	each	\$822.07
511210 Perpetual	OpenText	1000021308	RightFax Connector for Lotus Notes - Redundant	each	\$822.07
511210 Perpetual	OpenText	1000021312	RightFax PDF Module - Redundant	each	\$822.07
511210 Perpetual	OpenText	1000020837	RightFax Searchable PDF Module - Redundant	each	\$260.25
511210 Perpetual	OpenText	1000021513	RightFax PDF Module and Searchable PDFModule - Redundant	each	\$1,083.14
511210 Perpetual	OpenText	1000021017	RightFax Bar Code Routing Module -Redundant	each	\$822.07
511210 Perpetual	OpenText	1000021316	RightFax integration Module - Redundant	each	\$4,119.42

511210 Perpetual	OpenText	1000021320	RightFax Business Integration Module Redundant	each	\$1,299.61
511210 Perpetual	OpenText	1000021318	RightFax Connector for SAP - Redundant	each	\$3,684.84
511210 Perpetual	OpenText	1000021322	RightFax Shared Services Module - Redundant	each	\$822.07
511210 Perpetual	OpenText	1000020482	RightFax Connector 2.0 for SharePoint Server 2007 - Redundant	each	\$822.07
511210 Perpetual	OpenText	1000021324	RightFax XML Generator - Redundant	each	\$822.07
511210 Perpetual	OpenText	1000021306	Additional Document Delivery Channel - Redundant	each	\$388.31
511210 Perpetual	OpenText	1000021411	RightFax Additional Document DeliveryChannel - FoIP Enabled – Redundant	each	\$627.91
511210 Perpetual	OpenText	1000043841	RightFax Archive - Redundant	each	\$4,771.28
511210 Perpetual	OpenText	1000043860	RightFax Secure FoIP Channel - Redundant	each	\$670.87
511210 Perpetual	OpenText	1000043861	RightFax Secure FoIP Upgrade from FoIP Enabled Fax Channel - Redundant	each	\$43.38
511210 Perpetual	OpenText	1000021414	FoIP Enable an Existing RightFax DocumentDelivery Channel – Redundant	each	\$238.77
<b>Fax Server - MFP Module for Xerox</b>					
511210 Perpetual	OpenText	1000020422	RightFax Connector 3.0 for Xerox MFP - 1-9 Devices	each	\$342.87
511210 Perpetual	OpenText	1000020456	RightFax Connector 3.0 for Xerox MFP - 10-49 Devices	each	\$256.12
511210 Perpetual	OpenText	1000020458	RightFax Connector 3.0 for Xerox MFP - 50-499 Devices	each	\$109.06



511210 Perpetual	OpenText	1000020460	RightFax Connector 3.0 for Xerox MFP - 500- 5,000 Devices	each	\$65.06
511210 Perpetual	OpenText	1000020440	RightFax Connector 3.0 for Xerox MFP - Redundant	each	\$0.01
<b>Fax Server - EIP Module for Xerox</b>					
511210 Perpetual	OpenText	1000020504	RightFax Connector 3.0 for Xerox EIP - 1-9 Devices	each	\$342.87
511210 Perpetual	OpenText	1000020506	RightFax Connector 3.0 for Xerox EIP - 10-49 Devices	each	\$256.12
511210 Perpetual	OpenText	1000020508	RightFax Connector 3.0 for Xerox EIP - 50-499 Devices	each	\$109.06
511210 Perpetual	OpenText	1000020510	RightFax Connector 3.0 for Xerox EIP - 500-5,000 Devices	each	\$65.06
511210 Perpetual	OpenText	1000020512	RightFax Connector 3.0 for Xerox EIP -Redundant	each	\$0.01
<b>Fax Server - MFP Module for Ricoh</b>					
511210 Perpetual	OpenText	1000020492	RightFax Connector 3.0 for Ricoh ESA MFP - 1-9 Devices	each	\$342.87
511210 Perpetual	OpenText	1000020494	RightFax Connector 3.0 for Ricoh ESA MFP - 10-49 Devices	each	\$256.12
511210 Perpetual	OpenText	1000020496	RightFax Connector 3.0 for Ricoh ESA MFP -50-499 Devices	each	\$109.06
511210 Perpetual	OpenText	1000020498	RightFax Connector 3.0 for Ricoh ESA MFP -500-5,000 Devices	each	\$65.06
511210 Perpetual	OpenText	1000020500	RightFax Connector 3.0 for Ricoh ESA MFP - Redundant Systems	each	\$0.01
<b>Fax Server - SMTP Connector for MFP</b>					
511210 Perpetual	OpenText	1000021568	RightFax SMTP Connector for MFPs, 1-9 MFPs	each	\$342.87

511210 Perpetual	OpenText	1000021566	RightFax SMTP Connector for MFPs, 10-49 MFPs	each	\$256.12
511210 Perpetual	OpenText	1000021572	RightFax SMTP Connector for MFPs, 50-499 MFPs	each	\$109.06
511210 Perpetual	OpenText	1000021570	RightFax SMTP Connector for MFPs, 500+ MFPs	each	\$65.06
511210 Perpetual	OpenText	1000021574	RightFax SMTP Connector for MFPs, Redundant Edition	each	\$0.01
<b>Fax Server - MFP Module for Hewlett Packard</b>					
511210 Perpetual	OpenText	1000020418	RightFax Connector 3.0 for Hewlett Packard MFP - 1-9 Devices	each	\$342.87
511210 Perpetual	OpenText	1000020450	RightFax Connector 3.0 for Hewlett Packard MFP - 10- 49 Devices	each	\$256.12
511210 Perpetual	OpenText	1000020452	RightFax Connector 3.0 for Hewlett Packard MFP - 50- 499 Devices	each	\$109.06
511210 Perpetual	OpenText	1000020454	RightFax Connector 3.0 for Hewlett Packard MFP - 500-5,000 Devices	each	\$65.06
511210 Perpetual	OpenText	1000020436	RightFax Connector 3.0 for Hewlett Packard MFP - Redundant	each	\$0.01
511210 Perpetual	OpenText	S-CPRF2460003	RightFax Connector 3.0 for Hewlett Packard MFP - 3.0 Upgrade from MFP Module 2.0/2.5	each	\$0.01
<b>Fax Server - MFP Module for Konica Minolta</b>					
511210 Perpetual	OpenText	1000020426	RightFax Connector 3.0 for Konica Minolta MFP - 1-9 Devices	each	\$342.87
511210 Perpetual	OpenText	1000020466	RightFax Connector 3.0 for Konica Minolta MFP - 10- 49 Devices	each	\$256.12
511210 Perpetual	OpenText	1000020468	RightFax Connector 3.0 for Konica Minolta MFP - 50- 499 Devices	each	\$109.06

511210 Perpetual	OpenText	1000020470	RightFax Connector 3.0 for Konica Minolta MFP - 500- 5,000 Devices	each	\$65.06
511210 Perpetual	OpenText	1000020444	RightFax Connector 3.0 for Konica Minolta MFP - Redundant	each	\$0.01
<b>RightFax Branch Officer Server</b>					
511210 Perpetual	OpenText	1000021335	RightFax Branch Office Server	each	\$3,118.89
511210 Perpetual	OpenText	1000021348	RightFax Branch Office Server - Mail Gateway Enabled	each	\$3,812.90
511210 Perpetual	OpenText	1000021339	RightFax Branch Office Server - 2 Additional Channels	each	\$1,991.13
511210 Perpetual	OpenText	1000021361	RightFax Branch Office Server - PDF Module	each	\$1,123.63
511210 Perpetual	OpenText	1000021368	RightFax Branch Office Server - Redundant	each	\$1,559.86
511210 Perpetual	OpenText	1000021355	RightFax Branch Office Server - Mail Gateway Enabled - Redundant	each	\$1,906.86
511210 Perpetual	OpenText	1000021342	RightFax Branch Office Server - 2 Additional Channels - Redundant	each	\$996.39
511210 Perpetual	OpenText	1000021362	RightFax Branch Office Server - PDF Module - Redundant	each	\$562.64
<b>Server Upgrades</b>					
511210 Perpetual	OpenText	1000021256	Open Text Fax Archiving Bundle - Basic to Professional Upgrade	each	\$3,032.14
511210 Perpetual	OpenText	1000021258	Open Text Fax Archiving Bundle - Basic to Advanced Upgrade	each	\$6,502.17
511210 Perpetual	OpenText	1000021260	Open Text Fax Archiving Bundle - Standard to Professional Upgrade	each	\$15,177.23
511210 Perpetual	OpenText	1000021262	Open Text Fax Archiving Bundle - Standard to Advanced Upgrade	each	\$4,333.40

511210 Perpetual	OpenText	1000021264	Open Text Fax Archiving Bundle – Professional to Advanced Upgrade	each	\$13,008.46
511210 Perpetual	OpenText	1000021266	RightFax Enterprise Suite to RightFax Enterprise Integration	each	\$10,405.94
<b>Redundant Server Upgrades</b>					
511210 Perpetual	OpenText	1000021270	RightFax Business Server to RightFax Enterprise Server - Redundant	each	\$1,516.90
511210 Perpetual	OpenText	1000021272	RightFax Business Server to RightFax Enterprise Suite - Redundant	each	\$3,251.91
511210 Perpetual	OpenText	S-CPRFPG2420010	RightFax Business Server to RightFax Enterprise Integration Server - Redundant	each	\$7,589.44
511210 Perpetual	OpenText	1000021274	RightFax Enterprise Server to RightFax Enterprise Suite – Redundant	each	\$2,164.63
511210 Perpetual	OpenText	1000021276	RightFax Enterprise Server to RightFax Enterprise Integration Server - Redundant	each	\$6,504.64
511210 Perpetual	OpenText	1000021278	RightFax Enterprise Suite to RightFax Enterprise Integration Server - Redundant	each	\$5,203.39
<b>Redundant to Production Upgrades</b>					
511210 Perpetual	OpenText	1000020406	Upgrade from Redundant to Production System	each	Priced as difference between current MSLP of the backup configuration/c omponoent and the current MSLP of the production configuration/ components, plus 10% of the value of the

					Production configuration/ component.
<b>Fax Gateways</b>					
33411	OpenText	1000019586	Fax Gateway 2100, Modular Fax Gateway, 1T1/E1/J1 SIP/T.38 - North America Edition	each	\$3,990.53
33411	OpenText	1000019609	Fax Gateway 2100, Modular Fax Gateway, 2T1/E1/J1 SIP/T.38 - North America Edition	each	\$5,466.12
33411	OpenText	1000019626	Fax Gateway 2100, Modular Fax Gateway, 4T1/E1/J1 SIP/T.38 - North America Edition	each	\$9,544.22
33411	OpenText	1000019651	Fax Gateway 304, Analog Fax Gateway, 4 FXO SIP/T.38 - North America Edition	each	\$503.98
33411	OpenText	1000019684	Fax Gateway 308, Analog Fax Gateway, 8 FXO SIP/T.38 - North America Edition	each	\$911.29
33411	OpenText	1000019705	Fax Gateway 904, ISDN Fax Gateway, 4 BRISIP/T.38 - North America Edition	each	\$867.51
33411	OpenText	1000019722	Fax Gateway 908, ISDN Fax Gateway, 8 BRISIP/T.38 - North America Edition	each	\$1,778.80
<b>Fax Gateway Upgrades and Spare Parts</b>					

33411	OpenText	1000019729	Fax Gateway 2100, Modular Fax Gateway Analog Voice Module - Quad FXS	each	\$256.12
33411	OpenText	1000019754	Fax Gateway 2100, Modular Fax Gateway Spare part - AC power supply	each	\$329.65
33411	OpenText	1000019783	Fax Gateway 2100, Modular Fax Gateway Spare part - Digital Voice Module - Single span	each	\$2,386.06
33411	OpenText	1000019787	Fax Gateway 2100, Modular Fax Gateway Spare part - Digital Voice Module - Dual span	each	\$3,878.17
33411	OpenText	1000019791	Fax Gateway 2100, Modular Fax Gateway Spare part - Analog Voice Module - Quad FXO	each	\$329.65
33411	OpenText	1000019570	Fax Gateway Model 304 and 308 Rack MountShelf	each	\$13.22
<b>Analog Fax Boards</b>					
33411	OpenText	1000020550	TR1034+P4-4L-R Four Channel Analog Fax Board	each	\$2,858.64
33411	OpenText	1000020607	TruFax 100-R-uPCI - uPCI Analog Fax Board -Half Length	each	\$563.47
33411	OpenText	1000020612	TruFax 200-R-uPCI - uPCI Analog Fax Board -Half Length	each	\$693.18
33411	OpenText	1000020629	TR1034+E4-4L Four Channel Analog FaxBoard - PCI Express	each	\$2,858.64
33411	OpenText	1000020634	TR1034+E8-8L Eight Channel Analog FaxBoard - PCI Express	each	\$5,374.41
33411	OpenText	1000020707	TR1034+P2-2L-R Two Channel Analog FaxBoard - Half Length	each	\$1,730.88
33411	OpenText	1000020714	TR1034+E2-2L-R Two Channel Analog FaxBoard - PCI Express - Half Length	each	\$1,730.88

33411	OpenText	1000020734	TruFax 100E - Analog Fax Board - PCIExpress - Half Length	each	\$563.47
33411	OpenText	1000020741	TruFax 200E - Analog Fax Board – PCI Express- Half Length	each	\$693.18
<b>DID and Combo Fax Boards</b>					
33411	OpenText	1000020524	TR1034+uP2C-R Two Channel Combo FaxBoard (1 Loop/ 1 DID) - Half Length	each	\$2,147.28
33411	OpenText	1000020527	TR1034+uP4C-R Four Channel Combo FaxBoard (2 Loop/ 2 DID) - Half Length	each	\$3,487.38
33411	OpenText	1000020532	TR1034+uP2D-R Two Channel DID FaxBoard - Half Length	each	\$2,147.28
33411	OpenText	1000020534	TR1034+uP4D-R Four Channel DID FaxBoard - Half Length	each	\$3,487.38
33411	OpenText	1000020719	TR1034+E2C-R Two Channel Combo FaxBoard (1 Loop/ 1 DID) - PCI Express - HalfLength	each	\$2,147.28
33411	OpenText	1000020722	TR1034+E2D-R Two Channel DID Fax Board - PCI Express - Half Length	each	\$2,147.28
33411	OpenText	1000020724	TR1034+E4C-R Four Channel Combo FaxBoard (2 Loop/ 2 DID) - PCI Express - HalfLength	each	\$3,487.38
33411	OpenText	1000020729	TR1034+E4D-R Four Channel DID Fax Board - PCI Express - Half Length	each	\$3,487.38
<b>Digital Fax Boards</b>					
33411	OpenText	1000020568	TR1034+P4H-T1-1N-R 4-pt T1/PRI InterfaceuPCI Fax Board	each	\$4,333.40
33411	OpenText	1000020573	TR1034+P8H-T1-1N-R 8-pt T1/PRI InterfaceuPCI Fax Board	each	\$6,502.17

33411	OpenText	1000020578	TR1034+P16H-T1-1N-R 16-pt T1/PRI InterfaceuPCI Fax Board	each	\$10,662.07
33411	OpenText	1000020583	TR1034+P24H-T1-1N-R 24-pt T1/PRI InterfaceuPCI Fax board	each	\$15,173.10
33411	OpenText	1000020661	TR1034+E4H-T1-1N-PCle-R 4-pt T1/PRIInterface Fax Board - PCI Express	each	\$4,333.40
33411	OpenText	1000020666	TR1034+E8H-T1-1N-PCle-R 8-pt T1/PRIInterface Fax Board - PCI Express	each	\$6,502.17
33411	OpenText	1000020671	TR1034+E16H-T1-1N-R 16-pt T1/PRI InterfaceFax Board - PCI Express	each	\$10,662.07
33411	OpenText	1000020676	TR1034+E24H-T1-1N-R 24-pt T1/PRI InterfaceFax board - PCI Express	each	\$15,173.10
33411	OpenText	1000020239	Dialogic TR1034+ELP4-TE - 4 Channel Low Profile Digital Fax board	each	\$4,333.40
33411	OpenText	1000020242	Dialogic TR1034+ELP8-TE - 8 Channel Low Profile Digital Fax board	each	\$6,502.17
33411	OpenText	1000021592	Dialogic TR1034+ELP16-TE - 16 Channel Low Profile Digital Fax board	each	\$10,662.07
33411	OpenText	1000021595	Dialogic TR1034+ELP24-TE - 24 Channel Low Profile Digital Fax board	each	\$15,173.10
<b>Port Upgrades – Right Fax Brooktrout 1034 boards with no Ethernet Connector</b>					
33411	OpenText	1000020746	TR1034 4-Channel to 8-Channel License Key (T1) Upgrade	each	\$3,899.65
33411	OpenText	S-CPRF2660002	TR1034 4-Channel to 16-Channel License Key (T1) Upgrade	each	\$8,670.93
33411	OpenText	S-CPRF2660003	TR1034 4-Channel to 24-Channel License Key (T1) Upgrade	each	\$12,796.13



33411	OpenText	1000020749	TR1034 8-Channel to 16-Channel License Key (T1) Upgrade	each	\$6,068.41
33411	OpenText	1000020753	TR1034 8-Channel to 24-Channel License Key (T1) Upgrade	each	\$9,744.99
33411	OpenText	1000020755	TR1034 16-Channel to 24-Channel License Key (T1) Upgrade	each	\$6,068.41
<b>Port Upgrades - Brooktrout 1034 boards with Ethernet Connector</b>					
33411	OpenText	1000020760	TR1034 4-Channel to 8-Channel License Key(T1)	each	\$3,899.65
33411	OpenText	1000020763	TR1034 4-Channel to 16-Channel License Key (T1)	each	\$8,671.55
<b>Port Upgrades – Right Fax Brooktrout 1034 boards with Ethernet Connector</b>					
33411	OpenText	1000020765	TR1034 4-Channel to 24-Channel License Key (T1)	each	\$12,796.13
33411	OpenText	1000020769	TR1034 8-Channel to 16-Channel License Key (T1)	each	\$6,068.41
33411	OpenText	1000020773	TR1034 8-Channel to 24-Channel License Key (T1)	each	\$10,232.44
33411	OpenText	1000020775	TR1034 16-Channel to 24-Channel License Key (T1)	each	\$6,068.41
<b>FOIP Upgrades for Right Fax Brooktrout 1034 ON boards</b>					
33411	OpenText	S-CPRF2660013	TR1034 4-Channel (T1) FOIP Upgrades for Right Fax Brooktrout 1034 ON boards	each	\$867.51

33411	OpenText	S-CPRF2660014	TR1034 8-Channel (T1) FOIP Upgrades for Right Fax Brooktrout 1034 ON boards	each	\$867.51
33411	OpenText	S-CPRF2660015	TR1034 16-Channel (T1) FOIP Upgrades for Right Fax Brooktrout 1034 ON boards	each	\$867.51
33411	OpenText	S-CPRF2660016	TR1034 24-Channel (T1) FOIP Upgrades for Right Fax Brooktrout 1034 ON boards	each	\$867.51
<b>Reconnect Program</b>					
54151	OpenText	1000021125	FileNet Fax Server Migration Program	each	\$3,010.33
<b>Standard Implementatio n Support Services</b>					
54151	OpenText	P-RFSERVICE-ASP	Implementation - RightFax (Normal Business Hours, 9am-6pm EST or REMOTE Installation)	day	\$1,611.08
54151	OpenText	P-RFSERVICE7-ASP	Implementation - RightFax (Weekends and After Hours, after 6pm EST or ONSITE Installation)	day	\$2,437.28
<b>Standard Support Plans</b>					
54151	OpenText	1000018893	Standard Support for RightFax - 1 Year - ASP <b>** See page 42 for additional notes regarding pricing</b>	year	\$1,744.38
<b>24 X 7 Extended Support Plans</b>					
54151	OpenText	S-CPRFEXTENDED- ASP	Extended 24X7 Support for RightFax - 1 Year - ASP <b>** See page 42 for additional notes regarding pricing</b>	year	\$4,382.87
54151	OpenText	S-CPRFENTER-ASP	Extended 24X7 Support for RightFax - 1 Year - ASP	year	\$26,297.23

			** See page 42 for additional notes regarding pricing		
<b>Fax Gateway Support Plans</b>					
811212	OpenText	1000019581	Fax Gateway 2100, Modular Fax Gateway, 1 T1/E1/J1 SIP/T.38 - Advanced Replacement New Sale- 1 Year. A Standard Support Contract is required in addition to Advanced Replacement Coverage.	year	\$499.02
811212	OpenText	1000019584	Fax Gateway 2100, Modular Fax Gateway, 1 T1/E1/J1 - Standard Support	year	\$665.91
811212	OpenText	1000019606	Fax Gateway 2100, Modular Fax Gateway, 2 T1/E1/J1 SIP/T.38 - Advanced Replacement New Sale - 1 Year. A Standard Support Contract is required in addition to Advanced Replacement Coverage.	year	\$684.09
811212	OpenText	1000019610	Fax Gateway 2100, Modular Fax Gateway, 2 T1/E1/J1 - Standard Support New Sale	year	\$911.29
811212	OpenText	1000019625	Fax Gateway 2100, Modular Fax Gateway, 4 T1/E1/J1 SIP/T.38 - Advanced Replacement New Sale- 1 Year. A Standard Support Contract is required in addition to Advanced Replacement Coverage.	year	\$1,193.03
811212	OpenText	1000019634	Fax Gateway 2100, Modular Fax Gateway, 4 T1/E1/J1 SIP/T.38 - Standard Support New Sale	year	\$1,590.43

811212	OpenText	1000019646	Fax Gateway 304, Analog Fax Gateway, 4 FXO SIP/T.38 - Advanced Replacement New Sale- 1 Year. A Standard Support Contract is required in addition to Advanced Replacement Coverage.	year	\$63.62
811212	OpenText	1000019652	Fax Gateway 304, Analog Fax Gateway, 4 FXO SIP/T.38 - Standard Support New Sale	year	\$84.27
811212	OpenText	1000019681	Fax Gateway 308, Analog Fax Gateway, 8 FXO SIP/T.38 - Advanced Replacement New Sale- 1 Year. A Standard Support Contract is required in addition to Advanced Replacement Coverage.	year	\$114.02
811212	OpenText	1000019685	Fax Gateway 308, Analog Fax Gateway, 8 FXO SIP/T.38 - Standard Support New Sale	year	\$152.02
811212	OpenText	1000019702	Fax Gateway 904, ISDN Fax Gateway, 4 BRI SIP/T.38 - Advanced Replacement New Sale- 1 Year. A Standard Support Contract is required in addition to Advanced Replacement Coverage.	year	\$130.54
811212	OpenText	1000019715	Fax Gateway 904, ISDN Fax Gateway, 4 BRI SIP/T.38 - Standard Support New Sale	year	\$173.50
811212	OpenText	1000019719	Fax Gateway 908, ISDN Fax Gateway, 8 BRISIP/T.38 - Advanced Replacement New Sale- 1 Year. A Standard Support Contract is required in addition to Advanced Replacement Coverage.	year	\$222.25
811212	OpenText	1000019728	Fax Gateway 908, ISDN Fax Gateway, 8 BRI SIP/T.38 - Standard	year	\$296.60

			Support Renewal New Sale		
<b>Hardware Advanced Replacement Plans</b>					
811212	OpenText	S-CPRFCPADVREPL-ASP RENEWAL	Next Day Advanced Replacement - 1 year – Renewal	year	15% of the current MSLP of the board for 12 Months coverage.
811212	OpenText	S-CPRFCPADVREPL-ASP NEW SALE	Next Day Advanced Replacement - 1 year - New Sale	year	15% of the current MSLP of the board for 12 Months coverage.

#### Notes regarding OpenText Support Plans:

**Standard support for RightFax 1 Year-** Support is calculated per total system based on 23% of the current MSLP. Standard ASP support includes support via phone, remote access and the Open Text Knowledge Center during business hours (8am-8pm EST). Also includes full and point upgrade media on versions released during the active term of the contract. All upgrade media is upon request and downloadable from the downloads section of the RightFax Knowledge Center.

**Extended 24X7 Support for RightFax - 1 Year** –Standard support for RightFax Support plan required in addition to this 24x7 support plan - minimum additional charge as listed for item S-CPRFEXTENDED-ASP or 3% of the applicable software price awarded , whichever is greater.

**Premier Basic Support for RightFax - 1 Year** – Extended 24X7 Support for RightFax required in addition to this Premier Basic Support- Minimum additional charge as listed for item S-CPRFENTER-ASP or 7% of the applicable software price awarded, whichever is greater. Premier Basic support provides a TAM (Technical Account Manager) to provide enterprise level support.

**S-CPIncrement RightFax Incremental Support** - Incremental RightFax support for additional software purchased is mandatory.

## FAXPULSE BUSINESS INTELLIGENCE OFFERINGS

SIN	MANUFACTURER	MFR PART NO	PRODUCT DESCRIPTION	UOI	GSA OFFER PRICE (inclusive of the .75% IFF)
<b>Term Software Licenses</b>					
511210 Term	Advantage Technologies, Inc (ATI)	AT-FBI-SERV-S	Advantage FaxPulse BI Server - 1 Year Subscription: 1 Server License with up to 4 SUID licenses and 10 Document CALs	each	\$5,194.66
511210 Term	Advantage Technologies, Inc (ATI)	AT-FBI-SUID-S	Advantage FaxPulse BI 1 Additional SUID License - 1 Year Subscription: 1 additional SUID license for FaxPulse BI Server	each	\$602.22
511210 Term	Advantage Technologies, Inc (ATI)	AT-FBI-5CAL-S	Advantage FaxPulse BI 5 Document CAL Bundle - 1 Year Subscription: 5 Additional Document CALs for FaxPulse BI Server or Enterprise Server	each	\$862.17
511210 Term	Advantage Technologies, Inc (ATI)	AT-FBI-ENT-S	Advantage FaxPulse BI Enterprise Server - 1 Year Subscription: 1 Server License with unlimited SUID licenses and 20 Document CALs	each	\$12,993.15
511210 Term	Advantage Technologies, Inc (ATI)	AT-FBI-UPGRADE-S	Advantage FaxPulse BI Server - 1 Year Subscription: 1 Server License with up to 4 SUIDs and 10 Document CALs  *UPGRADE PATH FROM DESKTOP TO SERVER	each	\$4,761.41
<b>Perpetual Software Licenses</b>					

511210 Perpetual	Advantage Technologies, Inc (ATI)	AT-FBI-P-SERV	Advantage FaxPulse BI Server - Perpetual License: 1 Server License with up to 4 SUID licenses and 10 Document CALs	each	\$9,748.11
511210 Perpetual	Advantage Technologies, Inc (ATI)	AT-FBI-P-SUID	Advantage FaxPulse BI 1 Additional SUID License - Perpetual License: 1 additional SUID license for FaxPulse BI Server	each	\$1,122.12
511210 Perpetual	Advantage Technologies, Inc (ATI)	AT-FBI-P-5CAL	Advantage FaxPulse BI 5 Document CAL Bundle - Perpetual License: 5 Additional Document CALs for FaxPulse BI Server or Enterprise Server	each	\$1,642.02
511210 Perpetual	Advantage Technologies, Inc (ATI)	AT-FBI-P-ENT	Advantage FaxPulse BI Enterprise Server - Perpetual License: 1 Server License with Unlimited SUID licenses and 20 Document CALs.	each	\$24,257.63
511210 Perpetual	Advantage Technologies, Inc (ATI)	AT-FBI-P-UPGRADE	Advantage FaxPulse BI Server - Perpetual License: 1 Server License with up to 4 SUIDs and 10 Document CALs  *UPGRADE PATH FROM DESKTOP TO SERVER	each	\$9,093.90
<b>Maintenance of Software</b>					
54151	Advantage Technologies, Inc (ATI)	AT-FBI-PM-SERV	Yearly Maintenance for AT- FBI-P-SERV	each	\$1,949.62
54151	Advantage Technologies, Inc (ATI)	AT-FBI-PM-SUID	Yearly Maintenance for AT- FBI-P-SUID	each	\$224.42
54151	Advantage Technologies, Inc (ATI)	AT-FBI-PM-5CAL	Yearly Maintenance for AT- FBI-P-5CAL	each	\$328.40



54151	Advantage Technologies, Inc (ATI)	AT-FBI-PM-ENT	Yearly Maintenance for AT-FBI-P-ENT	each	\$4,851.53
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**Standard  
Implementation  
Support  
Services**

54151	Advantage Technologies, Inc (ATI)	AT-FBI-PS	Advantage FaxPulse BI Remote Implementation Services (Normal Business Hours, 9am-6pm EST)	day	\$1,733.00
54151	Advantage Technologies, Inc (ATI)	AT-FBI-PS-7	Advantage FaxPulse BI Onsite Implementation Services (Normal Business Hours, 9am-6pm EST)	day	\$2,859.45

## **END USER LICENSE AGREEMENT**

This End User License Agreement (this “Agreement”) is made by and between Advantage Technologies Inc. a New York Corporation (“Advantage”) and the entity that accepts this Agreement (the “Customer”). Advantage and Customer are from time to time each referred to herein as a “Party” and collectively as the “Parties.”

This Agreement encompasses both the present document and a pre-existing document setting forth terms of agreement between Advantage and Customer with respect to the Licensed Software and related products and support services (“Proposal”). This Agreement provides Customer the right to use, in accordance with the terms of the Proposal, a software product called FaxPulse Business Intelligence (the “Licensed Software”). This Agreement also provides for Advantage to provide Customer certain support services according to the terms set forth below.

THIS AGREEMENT IS A BINDING LICENSE AGREEMENT BETWEEN CUSTOMER AS LICENSEE AND ADVANTAGE AS LICENSOR. CUSTOMER AGREES THAT, AT SUCH TIME AS CUSTOMER EXECUTES, THIS AGREEMENT IN WRITING, CUSTOMER WILL BECOME LEGALLY BOUND BY ALL PROVISIONS OF THIS AGREEMENT. IF YOU DO NOT SO AGREE, DO NOT EXECUTE THIS AGREEMENT AND PROMPTLY RETURN SAME TO ADVANTAGE.

### General Terms and Conditions

#### 1. Grant and Restrictions.

1.1 Grant. Subject to the terms and conditions of this Agreement. Advantage hereby grants to the Customer and its Affiliates (only for so long as any such entity is an Affiliate of Customer) a non-exclusive, nontransferable, non-assignable, revocable, and limited right, unlimited as to time unless terminated as provided herein, to: (a) use the Licensed Software only as incorporated therein solely for On-Premises Use; and (b) reproduce and use any documentation provided by Advantage and relating to the Licensed Software (“Documentation”) as reasonably necessary to support the licenses granted in this Section 1.1.

1.2 Restrictions on Grant. Customer is not granted any rights with respect to any portion, module, or component of the Licensed Software as a stand-alone product, and no rights are granted as to any portion, module, or component of the Licensed Software independently or otherwise separated from the Licensed Software.

1.3 Non-Exclusivity. All rights granted to the Customer under this Agreement are non-exclusive. All rights not expressly granted to the Customer in this Agreement are reserved to Advantage and its licensors and their affiliates and licensors.

#### 2. Additional Terms

##### 2.1 Limitations on Use.

(a) All use of the Licensed Software is limited by the following:

(i) Customer acknowledges that the Licensed Software contains Third Party Products. Customer is expressly prohibited from using the Third Party Products in any way other than integrated with the data structures of the Licensed Software. Customer has no license or any other right to the Third Party Products, and may under no circumstances whatsoever use the Third Party Products independently or separated from the Licensed Software.

(ii) Customer may only use the Licensed Software and the Third Party Products for Customer’s own internal purposes in accordance with the terms of this Agreement. Customer shall not, directly or indirectly: (A) sell, rent, sublicense, publish, display, loan, distribute, or lease the Licensed Software or the Third Party Products; (B) transfer to any other person or entity any of its rights to use the Licensed Software or the Third Party Products except as expressly permitted hereunder; (C) reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of the Licensed Software or the Third Party Products or underlying ideas or algorithms of the Licensed Software or the Third Party Products or any software contained therein, or create derivative works from the Licensed Software or the Third Party Products unless explicitly permitted by applicable and mandatory law; (D) remove, delete, or modify any copyright notices or any other proprietary notices or legends on, in or from the Licensed Software or the Third Party Products; (E) circumvent or work around any technical measures that restrict access to or limit the use of the Licensed Software; or (F) use the Licensed Software or the Third Party Products in any manner not authorized by this Agreement.

(iii) Customer acknowledges that Advantage and its Affiliates, or their respective suppliers or licensors where applicable, own and retain all right, title, and interest in and to Licensed Software and the Third Party Products, and their respective patents, trademarks (registered or unregistered), trade names, service marks, logos, designs, copyrights, trade secrets and confidential information. Customer does not acquire any right, title, or interest in or to the Licensed Software or the Third Party Products or any IP Rights contained therein.

- (iv) Customer will (A) comply with all applicable local, state, national, and foreign laws and regulations in connection with Customer's use of the Licensed Software, including those related to data privacy, copyright, export control, and the transmission of technical or personal data; and (B) use reasonable security precautions for providing access to the Licensed Software by its employees or other individuals to whom Customer provides access and to prevent unauthorized access to use of the Licensed Software. Customer is fully responsible for all data it introduces into Licensed Software, including but not limited to adequate protection and backup, and none of Advantage, the licensors of Advantage, or their respective Affiliates shall have any obligation or liability with respect thereto.
- (v) Individual software components, each of which has its own copyright and its own applicable license conditions ("Third Party Software") may be distributed, embedded, or bundled with the Licensed Software. Such Third Party Software is separately licensed by its copyright holder and Customer is aware of the limitations set forth by the license set forth by the copyright holder. No representations, warranties, or other commitments of any kind are made regarding such Third Party Software.
- (vi) When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be made as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Advantage shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.
- (vii) (A) Customer is authorized to use the Licensed Software only through accounts created for specific users of the numbers and types set forth in the Proposal. Customer may not exceed the authorized number and type of users, whether the users are human end users or computer servers. (B) The only data sources that Customer may make available to the FaxPulse Business Intelligence product are a RightFax SQL database, or data local to the respective RightFax servers in the environment (e.g., RightFax registry, configuration files, and log files). (C) The Licensed Software is restricted to the Advantage data structures associated therewith and cannot be connected to any third party data structures.
- (viii) The Customer shall discontinue use and destroy or return all copies of the Licensed Software and the Third Party Products upon any termination of this Agreement.
- (ix) Advantage reserves the right to conduct audits at the Customer's premises, subject to applicable Government security requirements, to ascertain whether the Customer's use of the Licensed Software and the Third Party Products complies with the provisions of this Agreement.
- (x) If Customer engages a Third Party Hosting Provider to host the Licensed Software on Customer's behalf, Customer shall be responsible for such Third Party Hosting Provider's compliance with this Agreement. Further, such Third Party Hosting Provider shall be restricted to hosting the Licensed Software only on Customer's behalf and may not use the Licensed Software for any other purpose.

3. Changes to Licensed Software; Consulting Services. (a) The Customer acknowledges and agrees that the Licensed Software is subject to on-going development, maintenance, and enhancements and is therefore subject to change. Advantage will make available information regarding any such changes as soon as reasonably practicable. Customer acknowledges that Advantage (and its licensors) shall only support certain prior versions of the Licensed Software and the Third Party Products in accordance with the Maintenance Policy. (b) Consulting Services. Customer may request Consulting Services, and Advantage may provide Consulting Services, on a case-by-case basis, subject to the written approval of Advantage, upon the execution of a Consulting Services Statement of Work and the payment of all applicable fees with respect thereto.

#### 4. Intellectual Property Rights.

4.1 Retention of Rights. All IP Rights relating to the Licensed Software and the Third Party Products and the Third Party Materials will at all times be the exclusive property of Advantage and its licensors and their Affiliates or their respective licensors or vendors, and all use of the IP Rights will accrue to the benefit of their respective owners.

4.2 Ownership. Nothing contained in this Agreement will constitute or be construed as a transfer of ownership of any of the IP Rights of Advantage or of any other person or to otherwise transfer ownership of any proprietary rights to the Licensed Software or the Third Party Products or the Third Party Materials.

Customer hereby assigns its right, title, and interest in any new features, functionality, or performance that Customer suggests and that Advantage or any of its licensors adopts for the Licensed Software or the Third Party Products. Such new features, functionality, or performance shall be deemed to be automatically assigned under this Agreement to, and shall become the sole and exclusive property of, Advantage (for Licensed Software) or its applicable licensor (for the Third Party Products). At Advantage's request, Customer will execute any instruments reasonably requested by Advantage to perfect Advantage's or its licensors' or their Affiliates' exclusive ownership rights in the Licensed Software or the Third Party Products, or in any improvements thereto. But at a minimum, Customer shall receive unlimited rights to use such works at no further cost.

4.3 Third Party Software and Third Party Materials. The

Licensed Software may include certain Third Party Software and may be accompanied by Third Party Materials, both of which, where present, are separately licensed by their respective owners. The applicable license terms and information relating to such Third Party Software or Third Party Materials, including any availability of source code, may be found within the Documentation or in on-line sources referenced therein. Customer shall abide by all such license terms including, without limitation, any provisions governing access to source code or modification. **ADVANTAGE AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR OTHER COMMITMENT REGARDING THE THIRD PARTY MATERIALS. ADVANTAGE AND ITS LICENSORS HEREBY DISCLAIM ANY AND ALL LIABILITY WITH RESPECT TO CUSTOMER'S USE OF ANY THIRD PARTY SOFTWARE OR THIRD PARTY MATERIALS.**

4.4 Additional Restrictions. The Customer will not (nor will it authorize any third party to): (a) copy or manufacture the Licensed Software or the Third Party Products or any portion thereof or bypass or delete any copy protections thereon that are intended to prevent unauthorized copying or use of the Licensed Software or the Third Party Products; (b) port, modify, adapt, enhance, extend, decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code of the Licensed Software or the Third Party Products by any means whatsoever; (c) modify, adapt, alter, translate, or create any derivative work from the Licensed Software or the Third Party Products or the Third Party Materials or the Documentation; (d) distribute the Licensed Software or the Third Party Products as a stand-alone product or incorporate or bundle the Licensed Software or the Third Party Products into or with any hardware or software other than the approved Licensed Software; or (e) combine or integrate the Licensed Software or the Third Party Products with any other software or hardware that results in the infringement of any third party's IP Rights.

4.8 Notification. The Customer will promptly notify Advantage of any actual, threatened, or suspected infringement, and will promptly notify Advantage of any claims or allegations that the Licensed Software or the Third Party Products infringe the rights of any third party.

#### 5. Infringement of Third-Party Intellectual Property Rights.

5.1 Indemnification by Advantage. Subject to the provisions of Sections 5.2 and 5.5, Advantage will defend the Customer and its Affiliates (each, a "Customer Indemnitee" and together, the "Customer Indemnitees") against any Third Party IP Claim. Advantage shall pay to each applicable Customer Indemnitee the damages, costs, and expenses (including reasonable attorneys' fees) finally awarded against such Customer Indemnitee by a court of competent jurisdiction (or in a written settlement agreement signed by Advantage) directly attributable to such Third Party IP Claim.

5.2 Exclusions. Advantage will have no liability to any Customer Indemnitee under Section 5.1 for any Third Party IP Claim that arises from or is based upon: (a) any unauthorized use, reproduction, or distribution of any Licensed Software; (b) any modification or alteration of the Licensed Software by anyone other than Advantage; (c) the use of the Licensed Software in combination with any other software or equipment not approved in writing by Advantage; (d) any Third Party Product, Third Party Software, or Third Party Materials provided with the Advantage Product; (e) use of a prior version of the Licensed Software, if use of a newer version of the Licensed Software would have avoided such claim; or (f) failing to follow Advantage's reasonable written instructions where doing so would have avoided such claim. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

5.3 Remedies. In addition, if any Licensed Software becomes, or in Advantage's opinion is likely to become, the subject of a Third Party IP Claim, Advantage may, at its own expense and option, elect to either: (a) procure the right for Customer to continue using the Licensed Software in accordance with the provisions of this Agreement; (b) make such alterations, modifications, or adjustments to Licensed Software so that the infringing Licensed Software becomes noninfringing without incurring a material diminution in performance or function; (c) replace the Licensed Software with a non-infringing substantially similar substitute; or (d) if neither (a), (b) nor (c) can be achieved after the exercise of commercially reasonable efforts, terminate the licenses for the affected Licensed Software and refund to the Customer: (i) all amounts paid by the Customer to Advantage as License Fees with respect to the affected Licensed Software, less an amount equal to depreciation of such License Fees calculated on a three-year straight-line basis from the date of delivery, and (ii) a pro rata portion of any prepaid Maintenance Fees for the then-current annual Maintenance period.

#### 5.4 [Reserved]

5.5 Procedures. All indemnification obligations as set out in Sections 5.1 are subject to the following requirements:

(a) Customer will provide Advantage with prompt written notice of any such action or claim; (b) Customer will permit Advantage to assume and control the defense and settlement of any such action or claim; (c) Customer will not prejudice the defense of the action or claim; (d) each Party will mitigate such damages, costs, and expenses, as far as reasonably possible; and (e) Customer will provide Advantage with such assistance, documents, authority and

information as it may reasonably require in relation to the action or claim and defense or settlement thereof. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or suit brought against the U.S. pursuant to its jurisdictional statute 28 U.S.C. § 516

**5.6 THIS SECTION 5 STATES EACH PARTY'S ENTIRE LIABILITY, AND THE OTHER PARTY'S SOLE REMEDIES, FOR CLAIMS FOR INFRINGEMENT OF THIRD-PARTY IP RIGHTS.**

6. Support. Advantage will use commercially reasonable efforts to provide support to correct issues arising solely from the Licensed Software. Advantage's obligation to provide support does not include services required due to alteration of any software other than the Licensed Software, or due to any alteration of the Licensed Software by anyone other than Advantage, or due to changes to Customer's computers, computer systems, computer services, or any item or service provided by a third party. Advantage will provide additional assistance beyond support services in its sole discretion and may require the Customer to contract for Consulting Services before rendering such services. Upon Customer's initial acquisition of a perpetual license for the Licensed Software, Customer will be required, under the terms of the Proposal, to purchase a term at least one year of support services (the "Support Term") from Advantage. Upon the expiration of the Support Term and any extension thereof agreed by the Parties, Advantage will discontinue all support services to Customer, including but not limited to moving the Licensed Software from one computer or computer system or computer network to another. After the Support Term has expired, Customer is prohibited from installing the Licensed Software on any new computers or computer systems or computer networks.

**7. Fees and Payments.**

7.1 Taxes. Advantage shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) to you or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

**8. Limited Warranty and Disclaimers.**

8.1 Advantage represents and warrants that it has the right to grant Customer the rights and licenses provided under this Agreement. Customer's sole remedy and Advantage's sole obligation with respect to any breach of the foregoing shall be indemnification pursuant to Section 5 of this Agreement.

8.2 Advantage warrants that the initial version of the Software delivered under this Agreement will, for a period of thirty (30) days from the Customer's date of acceptance of the Licensed Software ("Warranty Period"), operate substantially in conformity with its applicable Documentation, provided that Customer has not made any changes in that time to Customer's computers, computer systems, computer network, or related products or services since installation of the initial version. Customer is deemed to have accepted the Software on the earlier of the date that such Software is made available for installation or use by Customer ("Availability Date") or the Effective Date stated in the Proposal. Customer must assert any claim for breach of this warranty within the Warranty Period. Customer's sole and exclusive remedy for any breach of the warranty set forth in this Section 8.2 shall be, at Advantage's option and expense, either: (a) prompt repair or replacement by Advantage of the nonconforming Software; or (b) a refund of the License Fees and Maintenance fees paid for such non-conforming Software. If Advantage elects to refund the License Fees and Maintenance Fees, upon payment thereof all licenses granted to the non-conforming copy Software shall automatically terminate.

8.3 Advantage does not represent, warrant, or make any commitment that: (a) the Licensed Software will meet the Customer's requirements; (b) the Licensed Software will operate in combination with other hardware or software, except as expressly specified in the Documentation; or (c) operation of the Licensed Software will be uninterrupted or error free. THE LICENSOR PRODUCTS, DOCUMENTATION, SUPPORT, AND CONSULTING SERVICES ARE PROVIDED "AS IS," AND LICENSOR AND ITS AFFILIATES, AND THEIR RESPECTIVE LICENSORS AND VENDORS DISCLAIM ALL OTHER WARRANTIES, CONDITIONS AND OTHER TERMS, WHETHER EXPRESS OR IMPLIED (BY STATUTE, COMMON LAW, OR OTHERWISE) INCLUDING WITHOUT LIMITATION, AS TO THEIR ACCURACY, TIMELINESS, COMPLETENESS, RESULTS, TITLE, NONINFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, EVEN IF LICENSOR HAS BEEN INFORMED OF SUCH PURPOSE, AND ANY REPRESENTATIONS, WARRANTIES, OR OTHER TERMS ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

THIS AGREEMENT DOES NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA SCHEDULE 70 CONTRACT UNDER FAR 52.212-4(O). IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109.

**9. Limitations of Liability.**

9.1 Except for its obligations under Section 5.1 (Indemnification), Advantage's and its Affiliates' maximum, cumulative liability for damages under this Agreement (other than damages arising from a Consulting Services Statement of Work), regardless of the form of action, whether in contract, tort (including but not limited to negligence or strict liability), or otherwise shall in no event exceed the aggregate amount of Fees (excluding Consulting Services Fees) actually paid by the Customer under this Agreement for the first twelve (12) months of this Agreement. With respect to any damages arising under any Consulting Services Statement of Work, regardless of the form of action, whether, in contract, tort (including but not limited to negligence or strict liability). Advantage's and its suppliers' and Affiliates' maximum, cumulative liability shall in no event exceed the amount of fees paid by Customer to Advantage under the applicable Consulting Services Statement of Work which is the subject of the claim.

THIS AGREEMENT SHALL NOT IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT'S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAR 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).

9.2 Except for: (a) any breach of its obligations to comply with Sections 1.1 (Grant), 1.2 (Restrictions on Grant), 2.1 (Limitations of Use), 4 (Intellectual Property Rights), 7 (Fees and Payment), 10 (Confidentiality), and 14 (Compliance); or (b) its indemnification obligations hereunder, the Customer's aggregate and cumulative liability for damages (regardless of the form of action, whether in contract, tort (including but not limited to negligence), or otherwise, shall in no event exceed the aggregate amount of Fees paid and then payable by the Customer under this Agreement.

9.3 EXCEPT FOR ANY BREACH BY THE CUSTOMER OF SECTIONS 1.1 (GRANT), 1.2 (RESTRICTIONS ON GRANT), 2.1 (LIMITATIONS OF USE), 4 (INTELLECTUAL PROPERTY RIGHTS), 7 (FEES AND PAYMENT), 10 (CONFIDENTIALITY), AND 13 (COMPLIANCE); OR WITH RESPECT TO ADVANTAGE'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUES, SAVINGS, GOODWILL, DATA OR INACCURACY OF ANY DATA, OR COST OF SUBSTITUTE GOODS OR SOFTWARE REGARDLESS OF THE THEORY OF LIABILITY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWSOEVER ARISING, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. 9.4 THE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SET FORTH IN THIS AGREEMENT SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

#### 10. Confidentiality.

10.1 Each Party will protect the other's Confidential Information from unauthorized distribution and use using the same degree of care it uses to protect its own like information, but no less than a reasonable degree of care. Neither Party will make the other Party's Confidential Information available in any form to third parties nor use the other Party's Confidential Information except as necessary to exercise its express rights or perform its express obligations under this Agreement. The receiving Party shall not circulate Confidential Information within its own organization or that of its Affiliates except to those employees or consultants who need to know such information in connection with the business relationship between the Parties. Notwithstanding the foregoing, the receiving Party may disclose Confidential Information of the disclosing Party to the extent that such information is required to be disclosed by the receiving Party as a matter of law; provided that the receiving Party uses all reasonable efforts to provide the disclosing Party with prior notice of such disclosure and to obtain a protective order therefor. Advantage recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by the vendor.

10.2 The Parties agree to hold each other's Confidential Information in confidence during the term of this Agreement and for a period of five (5) years following any termination of this Agreement; provided, however, that Customer's obligations hereunder shall survive and continue in effect thereafter with respect to any of Advantage's Confidential Information that continues to be a trade secret under applicable law. All Confidential Information supplied by the Disclosing Party to the Receiving Party pursuant to the provisions of this Agreement, together with all copies thereof, will remain the property of the Disclosing Party.

#### 10.3 [Reserved]

#### 11. Term and Termination.

11.1 Unless sooner terminated pursuant to Section 11.2 below, the initial Support Term of this Agreement will commence on the earlier of the Availability Date and the Effective Date and will continue thereafter for the period set forth in the Proposal, or for one year if the Proposal does not state a different Support Term. Prior to the expiration of the Support Term and any subsequent extension thereof, Advantage and Licensee may, but are not obligated, to negotiate for an extension of the Support Term. Any termination or expiration of this Agreement (howsoever occasioned) will not affect any accrued rights, remedies, or liabilities of either Party.

11.2 When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be made as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, [vendor] shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

11.3 Upon termination or expiration of this Agreement: (a) all sums due to Advantage but not yet paid will become immediately due and payable; and (b) all rights and licenses granted to the Customer will terminate and the Customer will return to Advantage all copies of the Licensed Software currently in its possession and all Confidential Information of Advantage. Upon request by Advantage, a duly authorized representative of the Customer will certify in writing to Advantage that all such materials have been returned to Advantage.

11.4 Notwithstanding the termination or expiration of this Agreement, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such termination or expiration will survive, including without limitation, Sections, 2, 4, 5, 7 and 9-15 inclusive.

## 12. Verification and Audit.

12.1 Verification. At Advantage's written request, but not more frequently than once annually, the Customer shall furnish Advantage with a document signed by the Customer's authorized representative verifying that the Advantage Products are being used pursuant to the terms of this Agreement. In the event that the Customer is not in compliance with the terms of this Agreement, the Customer shall promptly report any discrepancies in the verification document. Such audit shall be in accordance with all applicable Government security requirements.

## 13. Compliance.

13.1 Export Control. (a) The Parties acknowledge that the license and distribution of the Licensed Products and the Third Party Products hereunder may be subject to the export control laws of the United States which may include, without limitation, the United States Export Administration Regulations, the Trading With the Enemy Act, the International Emergency Economic Powers Act, the Arms Export Control Act, and regulations promulgated by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), as amended from time to time (collectively, "Export Control Laws"). Customer agrees that all actions taken by Customer in furtherance of fulfillment of this Agreement will be in compliance with applicable Export Control Laws. Customer agrees to comply with all applicable Export Control Laws. In addition, Customer agrees that it will not export, re-export, transfer, or license any Software to any parties that are named as a "Specially Designated National" or "Blocked Person" as designated by the OFAC (which is currently published under the Internet address [www.treasury.gov/ire/resolutions/SDN-List/Pages/default.aspx](http://www.treasury.gov/ire/resolutions/SDN-List/Pages/default.aspx)). (b) If Customer knows, or if acting reasonably, should know, that the Licensed Software or Third Party Product could be exported, transferred, or licensed in a manner violating applicable Export Control Laws, Partner shall immediately notify Advantage.

13.2 Anti-Bribery. Customer will comply with all applicable laws and regulations applicable to its performance under this Agreement, including, without limitation, the provisions of the United States' Foreign Corrupt Practices Act ("FCPA") and the United Kingdom's Bribery Act 2010 ("Bribery Act").

## 14. General.

14.1 Assignment. Customer will not assign or transfer this Agreement or its rights and obligations under this Agreement to any party without the prior written consent of Advantage, and if consent is granted by Advantage, the approved assignee must agree to assume and be bound by the terms and conditions of this Agreement. For purposes of this Section 14.1, any change of control of the Customer, whether by merger, sale of equity interests, or otherwise, will constitute an assignment requiring the prior written consent of Advantage. Any attempt by Customer to assign this Agreement or its rights and obligations hereunder in violation of this Section 14.1 will be null and void, and will constitute a material breach of this Agreement.

14.2 Entire Agreement. To the extent permitted by law, this Agreement, together with the GSA Schedule Contract, Schedule Pricelist and Purchase Order(s), supersedes all prior or contemporaneous agreements or representations including, without limitation, all non-disclosure or confidentiality agreements, whether written or oral, concerning the subject matter hereof, except for the applicable Proposal. No addition to, or modification of, any provision of this Agreement shall be binding upon the Parties unless expressly stated to amend the terms hereof and approved by a duly authorized representative of each Party. Customer represents and acknowledges that in entering into this

Agreement it did not rely on any representations (whether innocent or negligent), warranties, or terms other than those expressly set forth in the Proposal and this Agreement.

14.3 Amendments and Waivers. This Agreement may not be modified, amended, or supplemented except by a separate written document executed by both Parties. No term of this Agreement shall be deemed waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the Party issuing the same.

14.4 Notices. All notices and other communications given or made pursuant to this Agreement will be in writing and will be deemed effectively delivered: (a) if sent by certified or registered mail, on the date received; (b) if sent by courier, on the date delivered; or (c) if refused, on the date of such refusal. All notices and communications will be sent to the parties at the addresses set forth in the Proposal. Either Party may change its contact information by delivering written notice to the other Party in the manner provided herein.

14.5 Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).

14.6 Relationship between the Parties. The relationship between the Parties is that of independent contractors. Nothing in this Agreement will constitute or be deemed to constitute a partnership, joint venture, employment relationship, or an agency. Under no circumstances will the employees of one Party be deemed to be employees of the other Party by virtue of this Agreement. Neither Party will have any authority to act on behalf of the other Party in any matter whatsoever, nor bind the other Party in any way without the other Party's prior written consent.

14.7 Headings. Severability. If any provision of this Agreement is invalid or unenforceable, that provision shall be construed, limited, modified, or, if necessary, severed to the extent necessary to eliminate its invalidity or unenforceability, and the other provisions of this Agreement shall remain in full force and effect. Any term which refers to a legal concept or process which exists in one jurisdiction shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which this Agreement may apply or to the laws of which a Customer may be or become subject. Headings are used in this Agreement for convenience only and shall not affect any construction or interpretation of this Agreement.

14.8 Successors. All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and permitted assigns of Advantage and Customer.

14.9 Governing Law and Jurisdiction. (a) This Agreement is governed by the Federal laws of the United States (excluding the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded).

15. Definitions. In addition to the terms elsewhere defined in this Agreement, the following terms used in this Agreement shall have the following meanings:

"Affiliate" means any entity which controls, is controlled by, or is under common control with a Party, where "control" means the legal, beneficial, or equitable ownership of at least a majority of the aggregate of all voting equity interests in such entity, but only for so long as such control exists.

"Confidential Information" means all business information disclosed by one Party to the other in connection with this Agreement. Without limiting the generality of the foregoing, Confidential Information includes Confidential Information of the licensors of Advantage. Confidential Information does not include information that: (i) enters the public domain through no fault of the receiving Party; (ii) is communicated to the receiving Party by a third party under no obligation of confidentiality; (iii) has been independently developed by the receiving Party without reference or access to or use of any Confidential Information of the disclosing Party; or (iv) was in the receiving Party's lawful possession prior to disclosure and had not been obtained either directly or indirectly from the disclosing Party.

"Consulting Services" means implementation services, consulting services, and other specialized support services provided by Advantage to the Customer in accordance with a fully-executed Consulting Services Statement of Work, which is a written agreement separate from this Agreement. "Consulting Services Statement of Work" means a statement of work made under this Agreement and entered into by the Parties documenting the agreed Consulting Services.

"Documentation" means the then-current documentation published and made generally available by Advantage for the Licensed Software in the form of manuals and function descriptions in printed or electronic form, as the same may be modified by Advantage from time to time.

"Effective Date" shall have the meaning stated in the applicable Proposal.

"IP Rights" means all rights, title, and interest in and to any and all forms of intellectual property rights including, without limitation, all patent applications and patents, copyrights, mask-work rights, design rights, trademarks, trade names, domain-name rights, trade secret rights, moral rights, neighboring and other related rights, rights in know-how, confidential information, and other trade secret rights, other rights associated with the authorship and/or the creation of artistic, intellectual, or industrial property, and all forms of protection of a similar nature anywhere in the world and of every kind and nature however designated, whether arising by operation of law, treaty, contract, or



license; whether tangible or intangible; whether or not registered, deposited, or published; and including without limitation, (i) all registrations, issuances, reissuances, amendments, extensions, continuations, divisions, licenses, and/or other counterparts thereof, whether in whole or in part, as well as all applications and the right to submit applications for any of the foregoing; and (ii) all legal rights arising from the use of the foregoing, such as (by way of example and not limitation) the light to license or otherwise authorize the transfer to and/or use of the foregoing by any other party and/or to assert a claim, cause of action, or other right arising out of or relating to any actual or threatened infringement by any person relating to the foregoing and recover damages, costs and attorney's fees for past, present and future infringement, misappropriation, or any other violation of any of the foregoing.

"Maintenance Policy" will have the meaning set forth in the Proposal.

"Maintenance Fees" will have the meaning set forth in the Proposal.

"On-Premises" means the deployment of a Licensed Software(s) at a Customer's location in accordance with the terms of this Agreement.

"Third Party Materials" means any materials (including open-source materials) of a third party distributed or made available, directly or indirectly, by an Advantage to Customer under this Agreement, and all whole or partial copies thereof, including by way of example but not limited to all: (i) software and Documentation; (ii) machine readable instructions and code; (iii) technology, files, libraries, modules, menus, algorithms, tools, processes, procedures, calls, routines, meta data, macros, blueprints, templates, scripts, commands, syntax and other components of the Software; (iv) the user interface of software and all audio-visual content (such as displays, images, shading, colors, organization, associations, structure, positioning, text, look and feel, recordings, or pictures) associated therewith; and (v) Confidential Information and other Third Party Materials (such as license keys, packaging, training services and deliverables, maintenance services and deliverables, professional services).

"Third Party Product" means the software incorporated into FaxPulse Business Intelligence and forming any portion thereof and owned by a third party (not by Advantage). This definition applies regardless of whether the third party's ownership of the separate component is known to Customer.

"Term" shall have the meaning set forth in the Proposal.

"Territory" means the geographic area(s) and/or market(s) as set out in the Proposal.

"Third Party IP Claim" means any claim, suit or proceeding brought by a third party against Advantage or its Affiliates that any software or service provided under this Agreement infringes a third party copyright or trademark, infringes a patent issued by the United States, Canada, Australia, Japan, Switzerland or any member country of the European Economic Area, or misappropriates a third party trade secret.

"Third Party Software" means open source and freeware components, and/or any other third party component, material or software licensed by the licensors of Advantage.

## **END USER LICENSE AGREEMENT (LIMITED LICENSE)**

This End User License Agreement (this “Agreement”) is made by and between Advantage Technologies Inc. a New York Corporation (“Advantage”) and entity that accepts this Agreement (the “Customer”). Advantage and Customer are from time to time each referred to herein as a “Party” and collectively as the “Parties.”

This Agreement encompasses both the present document and a pre-existing document setting forth terms of agreement between Advantage and Customer with respect to the Licensed Software and related products and support services (“Proposal”). This Agreement provides Customer the right to use, in accordance with the terms of the Proposal, a software product called FaxPulse Business Intelligence (the “Licensed Software”).

THIS AGREEMENT IS A BINDING LICENSE AGREEMENT BETWEEN CUSTOMER AS LICENSEE AND ADVANTAGE AS LICENSOR. CUSTOMER AGREES THAT, AT SUCH TIME AS CUSTOMER EXECUTES, THIS AGREEMENT, CUSTOMER WILL BECOME LEGALLY BOUND BY ALL PROVISIONS OF THIS AGREEMENT. IF YOU DO NOT SO AGREE, PROMPTLY RETURN SAME TO ADVANTAGE.

### General Terms and Conditions

#### 1. Grant and Restrictions.

1.1 Grant. Subject to the terms and conditions of this Agreement. Advantage hereby grants to the Customer and its Affiliates (only for so long as any such entity is an Affiliate of Customer) a non-exclusive, nontransferable, non-assignable, revocable, and limited right, during the Term of this Agreement only, to: (a) use the Licensed Software only as incorporated therein solely for On-Premises Use; and (b) reproduce and use any documentation provided by Advantage and relating to the Licensed Software (“Documentation”) as reasonably necessary to support the licenses granted in this Section 1.1.

1.2 Restrictions on Grant. Customer is not granted any rights with respect to any portion, module, or component of the Licensed Software as a stand-alone product, and no rights are granted as to any portion, module, or component of the Licensed Software independently or otherwise separated from the Licensed Software.

1.3 Non-Exclusivity. All rights granted to the Customer under this Agreement are non-exclusive. All rights not expressly granted to the Customer in this Agreement are reserved to Advantage and its licensors and their affiliates and licensors.

#### 2. Additional Terms

##### 2.1 Limitations on Use.

(a) All use of the Licensed Software is limited by the following:

(i) Customer acknowledges that the Licensed Software contains Third Party Products. Customer is expressly prohibited from using the Third Party Products in any way other than integrated with the data structures of the Licensed Software. Customer has no license or any other right to the Third Party Products, and may under no circumstances whatsoever use the Third Party Products independently or separated from the Licensed Software.

(ii) Customer may only use the Licensed Software and the Third Party Products for Customer’s own internal purposes in accordance with the terms of Agreement. Customer shall not, directly or indirectly: (A) sell, rent, sublicense, publish, display, loan, distribute, or lease the Licensed Software or the Third Party Products; (B) transfer to any other person or entity any of its rights to use the Licensed Software or the Third Party Products except as expressly permitted hereunder; (C) reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of the Licensed Software or the Third Party Products or underlying ideas or algorithms of the Licensed Software or the Third Party Products or any software contained therein, or create derivative works from the Licensed Software or the Third Party Products unless explicitly permitted by applicable and mandatory law; (D) remove, delete, or modify any copyright notices or any other proprietary notices or legends on, in or from the Licensed Software or the Third Party Products; (E) circumvent or work around any technical measures that restrict access to or limit the use of the Licensed Software; or (F) use the Licensed Software or the Third Party Products in any manner not authorized by this Agreement.

(iii) Customer acknowledges that Advantage and its Affiliates, or their respective suppliers or licensors where applicable, own and retain all right, title, and interest in and to Licensed Software and the Third Party Products, and their respective patents, trademarks (registered or unregistered), trade names, service marks, logos, designs, copyrights, trade secrets and confidential information. Customer does not acquire any right, title, or interest in or to the Licensed Software or the Third Party Products or any IP Rights contained therein.

(iv) Customer will (A) comply with all applicable local, state, national, and foreign laws and regulations in connection with Customer’s use of the Licensed Software, including those related to data privacy, copyright, export

control, and the transmission of technical or personal data; and (B) use reasonable security precautions for providing access to the Licensed Software by its employees or other individuals to whom Customer provides access and to prevent unauthorized access to use of the Licensed Software. Customer is fully responsible for all data it introduces into Licensed Software, including but not limited to adequate protection and backup, and none of Advantage, the licensors of Advantage, or their respective Affiliates shall have any obligation or liability with respect thereto.

(v) Customer acknowledges that individual software components, each of which has its own copyright and its own license conditions ("Third Party Software") may be distributed, embedded, or bundled with the Licensed Software. Such Third Party Software is separately licensed by its copyright holder. No representations, warranties, or other commitments of any kind are made regarding such Third Party Software.

(vi) When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be made as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Advantage shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

(vii) (A) Customer is authorized to use the Licensed Software only through accounts created for specific users of the numbers and types set forth in the Proposal. Customer may not exceed the authorized number and type of users, whether the users are human end users or computer servers. (B) The only data sources that Customer may make available to the FaxPulse Business Intelligence product are a RightFax SQL database, or data local to the respective RightFax servers in the environment (e.g., RightFax registry, configuration files, and log files). (C) The Licensed Software is restricted to the Advantage data structures associated therewith and cannot be connected to any third party data structures.

(viii) The Customer shall discontinue use and destroy or return all copies of the Licensed Software and the Third Party Products upon expiration of the Term or other termination of this Agreement.

(ix) Advantage reserves the right to conduct audits at the Customer's premises, subject to applicable Government security requirements, to ascertain whether the Customer's use of the Licensed Software and the Third Party Products complies with the provisions of this Agreement.

(x) If Customer engages a Third Party Hosting Provider to host the Licensed Software on Customer's behalf, Customer shall be responsible for such Third Party Hosting Provider's compliance with this Agreement. Further, such Third Party Hosting Provider shall be restricted to hosting the Licensed Software only on Customer's behalf and may not use the Licensed Software for any other purpose.

3. Changes to Licensed Software; Consulting Services. (a) The Customer acknowledges and agrees that the Licensed Software is subject to on-going development, maintenance, and enhancements and is therefore subject to change. Advantage will make available information regarding any such changes as soon as reasonably practicable. Customer acknowledges that Advantage (and its licensors) shall only support certain prior versions of the Licensed Software and the Third Party Products in accordance with the Maintenance Policy. (b) Consulting Services. Customer may request Consulting Services, and Advantage may provide Consulting Services, on a case-by-case basis, subject to the written approval of Advantage, upon the execution of a Consulting Services Statement of Work and the payment of all applicable fees with respect thereto.

#### 4. Intellectual Property Rights.

4.1 Retention of Rights. All IP Rights relating to the Licensed Software and the Third Party Products and the Third Party Materials will at all times be the exclusive property of Advantage and its licensors and their Affiliates or their respective licensors or vendors, and all use of the IP Rights will accrue to the benefit of their respective owners.

4.2 Ownership. Nothing contained in this Agreement will constitute or be construed as a transfer of ownership of any of the IP Rights of Advantage or of any other person or to otherwise transfer ownership of any proprietary rights to the Licensed Software or the Third Party Products or the Third Party Materials. Customer hereby assigns its right, title, and interest in any new features, functionality, or performance that Customer suggests and that Advantage or any of its licensors adopts for the Licensed Software or the Third Party Products. Such new features, functionality, or performance shall be deemed to be automatically assigned under this Agreement to, and shall become the sole and exclusive property of, Advantage (for Licensed Software) or its applicable licensor (for the Third Party Products). At Advantage's request, Customer will execute any instruments reasonably requested by Advantage to perfect Advantage's or its licensors' or their Affiliates' exclusive ownership rights in the Licensed Software or the Third Party Products, or in any improvements thereto, but at a minimum, Customer shall receive unlimited rights to use derivative works at no further cost.

4.3 Third Party Software and Third Party Materials. The Licensed Software may include certain Third Party Software and may be accompanied by Third Party Materials, both of which, where present, are separately licensed by their respective owners. The applicable license terms and information relating to such Third Party Software or

Third Party Materials, including any availability of source code, may be found within the Documentation or in on-line sources referenced therein. Customer shall abide by all such license terms including, without limitation, any provisions governing access to source code or modification. ADVANTAGE AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR OTHER COMMITMENT REGARDING THE THIRD PARTY MATERIALS. ADVANTAGE AND ITS LICENSORS HEREBY DISCLAIM ANY AND ALL LIABILITY WITH RESPECT TO CUSTOMER'S USE OF ANY THIRD PARTY SOFTWARE OR THIRD PARTY MATERIALS.

4.4 Additional Restrictions. The Customer will not (nor will it authorize any third party to): (a) copy or manufacture the Licensed Software or the Third Party Products or any portion thereof or bypass or delete any copy protections thereon that are intended to prevent unauthorized copying or use of the Licensed Software or the Third Party Products; (b) port, modify, adapt, enhance, extend, decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code of the Licensed Software or the Third Party Products by any means whatsoever; (c) modify, adapt, alter, translate, or create any derivative work from the Licensed Software or the Third Party Products or the Third Party Materials or the Documentation; (d) distribute the Licensed Software or the Third Party Products as a stand-alone product or incorporate or bundle the Licensed Software or the Third Party Products into or with any hardware or software other than the approved Licensed Software; or (e) combine or integrate the Licensed Software or the Third Party Products with any other software or hardware that results in the infringement of any third party's IP Rights.

4.8 Notification. The Customer will promptly notify Advantage of any actual, threatened, or suspected infringement, and will promptly notify Advantage of any claims or allegations that the Licensed Software or the Third Party Products infringe the rights of any third party.

5. Infringement of Third-Party Intellectual Property Rights.

5.1 Indemnification by Advantage. Subject to the provisions of Sections 5.2 and 5.5. Advantage will defend the Customer and its Affiliates (each, a "Customer Indemnitee" and together, the "Customer Indemnitees") against any Third Party IP Claim. Advantage shall pay to each applicable Customer Indemnitee the damages, costs, and expenses (including reasonable attorneys' fees) finally awarded against such Customer Indemnitee by a court of competent jurisdiction (or in a written settlement agreement signed by Advantage) directly attributable to such Third Party IP Claim.

5.2 Exclusions. Advantage will have no liability to any Customer Indemnitee under Section 5.1 for any Third Party IP Claim that arises from or is based upon: (a) any unauthorized use, reproduction, or distribution of any Licensed Software; (b) any modification or alteration of the Licensed Software by anyone other than Advantage; (c) the use of the Licensed Software in combination with any other software or equipment not approved in writing by Advantage; (d) any Third Party Product, Third Party Software, or Third Party Materials provided with the Advantage Product; (e) use of a prior version of the Licensed Software, if use of a newer version of the Licensed Software would have avoided such claim; or (f) failing to follow Advantage's reasonable written instructions where doing so would have avoided such claim.

5.3 Remedies. In addition, if any Licensed Software becomes, or in Advantage's opinion is likely to become, the subject of a Third Party IP Claim. Advantage may, at its own expense and option, elect to either: (a) procure the right for Customer to continue using the Licensed Software in accordance with the provisions of this Agreement; (b) make such alterations, modifications, or adjustments to Licensed Software so that the infringing Licensed Software becomes noninfringing without incurring a material diminution in performance or function; (c) replace the Licensed Software with a non-infringing substantially similar substitute; or (d) if neither (a), (b) nor (c) can be achieved after the exercise of commercially reasonable efforts, terminate the licenses for the affected Licensed Software and refund to the Customer: (i) all amounts paid by the Customer to Advantage as License Fees with respect to the affected Licensed Software, less an amount equal to depreciation of such License Fees calculated on a three-year straight-line basis from the date of delivery, and (ii) a pro rata portion of any prepaid Maintenance Fees for the then-current annual Maintenance period.

5.4 [Reserved]

5.5 Procedures. All indemnification obligations as set out in Sections 5.1 are subject to the following requirements:

(a) Customer will provide Advantage with prompt written notice of any such action or claim; (b) Customer will permit Advantage to assume and control the defense and settlement of any such action or claim; (c) Customer will not prejudice the defense of the action or claim; (d) each Party will mitigate such damages, costs, and expenses, as far as reasonably possible; and (e) Customer will provide Advantage with such assistance, documents, authority and information as it may reasonably require in relation to the action or claim and defense or settlement thereof.

Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

5.6 THIS SECTION 5 STATES EACH PARTY'S ENTIRE LIABILITY, AND THE OTHER PARTY'S SOLE REMEDIES, FOR CLAIMS FOR INFRINGEMENT OF THIRD-PARTY IP RIGHTS.

6. Support. Advantage will use commercially reasonable efforts to provide support to correct issues arising solely from the Licensed Software. Advantage's obligation to provide support does not include services required due to alteration of any software other than the Licensed Software, or due to any alteration of the Licensed Software by anyone other than Advantage, or due to changes to Customer's computers, computer systems, computer services, or any item or service provided by a third party. Advantage will provide additional assistance beyond support services in its sole discretion and may require the Customer to contract for Consulting Services before rendering such services.

7. Fees and Payments.

7.1 Taxes. Advantage shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) to you or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

8. Limited Warranty and Disclaimers.

8.1 Advantage represents and warrants that it has the right to grant Customer the rights and licenses provided under this Agreement. Customer's sole remedy and Advantage's sole obligation with respect to any breach of the foregoing shall be indemnification pursuant to Section 5 of this Agreement.

8.2 Advantage warrants that the initial version of the Software delivered under this Agreement will, for a period of thirty (30) days from the Customer's date of acceptance of the Licensed Software ("Warranty Period"), operate substantially in conformity with its applicable Documentation, provided that Customer has not made any changes in that time to Customer's computers, computer systems, computer network, or related products or services since installation of the initial version. Customer is deemed to have accepted the Software on the earlier of the date that such Software is made available for installation or use by Customer ("Availability Date") or the Effective Date stated in the Proposal. Customer must assert any claim for breach of this warranty within the Warranty Period. Customer's sole and exclusive remedy for any breach of the warranty set forth in this Section 8.2 shall be, at Advantage's option and expense, either: (a) prompt repair or replacement by Advantage of the nonconforming Software; or (b) a refund of the License Fees and Maintenance fees paid for such non-conforming Software. If Advantage elects to refund the License Fees and Maintenance Fees, upon payment thereof all licenses granted to the non-conforming copy Software shall automatically terminate.

8.3 Advantage does not represent, warrant, or make any commitment that: (a) the Licensed Software will meet the Customer's requirements; (b) the Licensed Software will operate in combination with other hardware or software, except as expressly specified in the Documentation; or (c) operation of the Licensed Software will be uninterrupted or error free. THE LICENSOR PRODUCTS, DOCUMENTATION, SUPPORT, AND CONSULTING SERVICES ARE PROVIDED "AS IS," AND LICENSOR AND ITS AFFILIATES, AND THEIR RESPECTIVE LICENSORS AND VENDORS DISCLAIM ALL OTHER WARRANTIES, CONDITIONS AND OTHER TERMS, WHETHER EXPRESS OR IMPLIED (BY STATUTE, COMMON LAW, OR OTHERWISE) INCLUDING WITHOUT LIMITATION, AS TO THEIR ACCURACY, TIMELINESS, COMPLETENESS, RESULTS, TITLE, NONINFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, EVEN IF LICENSOR HAS BEEN INFORMED OF SUCH PURPOSE, AND ANY REPRESENTATIONS, WARRANTIES, OR OTHER TERMS ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

THIS AGREEMENT DOES NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA SCHEDULE 70 CONTRACT UNDER FAR 52.212-4(O). IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109.

9. Limitations of Liability.

9.1 Except for its obligations under Section 5.1 (Indemnification), Advantage's and its Affiliates' maximum, cumulative liability for damages under this Agreement (other than damages arising from a Consulting Services Statement of Work), regardless of the form of action, whether in contract, tort (including but not limited to negligence or strict liability), or otherwise shall in no event exceed the aggregate amount of Fees (excluding Consulting Services Fees) actually paid by the Customer under this Agreement for the first twelve (12) months of this Agreement. With respect to any damages arising under any Consulting Services Statement of Work, regardless of the form of action, whether, in contract, tort (including but not limited to negligence or strict liability). Advantage's and its suppliers' and Affiliates' maximum, cumulative liability shall in no event exceed the amount of

fees paid by Customer to Advantage under the applicable Consulting Services Statement of Work which is the subject of the claim.

THIS AGREEMENT SHALL NOT IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT'S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAR 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).

9.2 Except for: (a) any breach of its obligations to comply with Sections 1.1 (Grant), 1.2 (Restrictions on Grant), 2.1 (Limitations of Use), 4 (Intellectual Property Rights), 7 (Fees and Payment), 10 (Confidentiality), and 14 (Compliance); or (b) its indemnification obligations hereunder, the Customer's aggregate and cumulative liability for damages (regardless of the form of action, whether in contract, tort (including but not limited to negligence), or otherwise, shall in no event exceed the aggregate amount of Fees paid and then payable by the Customer under this Agreement.

9.3 EXCEPT FOR ANY BREACH BY THE CUSTOMER OF SECTIONS 1.1 (GRANT), 1.2 (RESTRICTIONS ON GRANT), 2.1 (LIMITATIONS OF USE), 4 (INTELLECTUAL PROPERTY RIGHTS), 7 (FEES AND PAYMENT), 10 (CONFIDENTIALITY), AND 13 (COMPLIANCE); OR WITH RESPECT TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUES, SAVINGS, GOODWILL, DATA OR INACCURACY OF ANY DATA, OR COST OF SUBSTITUTE GOODS OR SOFTWARE REGARDLESS OF THE THEORY OF LIABILITY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWSOEVER ARISING, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. 9.4 THE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SET FORTH IN THIS AGREEMENT SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

#### 10. Confidentiality.

10.1 Each Party will protect the other's Confidential Information from unauthorized distribution and use using the same degree of care it uses to protect its own like information, but no less than a reasonable degree of care. Neither Party will make the other Party's Confidential Information available in any form to third parties nor use the other Party's Confidential Information except as necessary to exercise its express rights or perform its express obligations under this Agreement. The receiving Party shall not circulate Confidential Information within its own organization or that of its Affiliates except to those employees or consultants who need to know such information in connection with the business relationship between the Parties. Notwithstanding the foregoing, the receiving Party may disclose Confidential Information of the disclosing Party to the extent that such information is required to be disclosed by the receiving Party as a matter of law; provided that the receiving Party uses all reasonable efforts to provide the disclosing Party with prior notice of such disclosure and to obtain a protective order therefor. Advantage recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by the vendor.

10.2 The Parties agree to hold each other's Confidential Information in confidence during the term of this Agreement and for a period of five (5) years following any termination of this Agreement; provided, however, that Customer's obligations hereunder shall survive and continue in effect thereafter with respect to any of Advantage's Confidential Information that continues to be a trade secret under applicable law. All Confidential Information supplied by the Disclosing Party to the Receiving Party pursuant to the provisions of this Agreement, together with all copies thereof, will remain the property of the Disclosing Party.

#### 10.3 [Reserved]

#### 11. Term and Termination.

11.1 Unless sooner terminated pursuant to Section 11.2 below, the initial term of this Agreement will commence on the earlier of the Availability Date and the Effective Date and will continue thereafter for the period set forth in the Proposal. Following the expiration of the Term, the Licensed Software will cease to function. Prior to the expiration of the Term and any subsequent extension thereof, Advantage and Licensee may, but are not obligated, to negotiate for an extension of the Term. Any termination or expiration of this Agreement (howsoever occasioned) will not affect any accrued rights, remedies, or liabilities of either Party.

11.2 When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be made as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Advantage shall proceed diligently with performance of this Agreement,

pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

11.3 Upon termination or expiration of this Agreement: (a) all sums due to Advantage but not yet paid will become immediately due and payable; and (b) all rights and licenses granted to the Customer will terminate and the Customer will return to Advantage all copies of the Licensed Software currently in its possession and all Confidential Information of Advantage. Upon request by Advantage, a duly authorized representative of the Customer will certify in writing to Advantage that all such materials have been returned to Advantage.

11.4 Notwithstanding the termination or expiration of this Agreement, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such termination or expiration will survive, including without limitation, Sections, 2, 4, 5, 7 and 9-15 inclusive.

## 12. Verification and Audit.

12.1 Verification. At Advantage's written request, but not more frequently than once annually, the Customer shall furnish Advantage with a document signed by the Customer's authorized representative verifying that the Advantage Products are being used pursuant to the terms of this Agreement. In the event that the Customer is not in compliance with the terms of this Agreement, the Customer shall promptly report any discrepancies in the verification document.

## 13. Compliance.

13.1 Export Control. (a) The Parties acknowledge that the license and distribution of the Licensed Products and the Third Party Products hereunder may be subject to the export control laws of the United States which may include, without limitation, the United States Export Administration Regulations, the Trading With the Enemy Act, the International Emergency Economic Powers Act, the Arms Export Control Act, and regulations promulgated by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), as amended from time to time (collectively, "Export Control Laws"). Customer agrees that all actions taken by Customer in furtherance of fulfillment of this Agreement will be in compliance with applicable Export Control Laws. Customer agrees to comply with all applicable Export Control Laws. In addition, Customer agrees that it will not export, re-export, transfer, or license any Software to any parties that are named as a "Specially Designated National" or "Blocked Person" as designated by the OFAC (which is currently published under the Internet address [www.treasury.gov/press/releases/2015/01/20150120-1.htm](http://www.treasury.gov/press/releases/2015/01/20150120-1.htm)). (b) If Customer knows, or if acting reasonably, should know, that the Licensed Software or Third Party Product could be exported, transferred, or licensed in a manner violating applicable Export Control Laws, Partner shall immediately notify Advantage.

13.2 Anti-Bribery. Customer will comply with all applicable laws and regulations applicable to its performance under this Agreement, including, without limitation, the provisions of the United States' Foreign Corrupt Practices Act ("FCPA") and the United Kingdom's Bribery Act 2010 ("Bribery Act").

## 14. General.

14.1 Assignment. Customer will not assign or transfer this Agreement or its rights and obligations under this Agreement to any party without the prior written consent of Advantage, and if consent is granted by Advantage, the approved assignee must agree to assume and be bound by the terms and conditions of this Agreement. For purposes of this Section 14.1, any change of control of the Customer, whether by merger, sale of equity interests, or otherwise, will constitute an assignment requiring the prior written consent of Advantage. Any attempt by Customer to assign this Agreement or its rights and obligations hereunder in violation of this Section 14.1 will be null and void, and will constitute a material breach of this Agreement.

14.2 Entire Agreement. To the extent permitted by law, this Agreement, together with the GSA Schedule Contract, Schedule Pricelist and Purchase Order, supersedes all prior or contemporaneous agreements or representations including, without limitation, all non-disclosure or confidentiality agreements, whether written or oral, concerning the subject matter hereof, except for the applicable Proposal. No addition to, or modification of, any provision of this Agreement shall be binding upon the Parties unless expressly stated to amend the terms hereof and approved by a duly authorized representative of each Party. Customer represents and acknowledges that in entering into this Agreement it did not rely on any representations (whether innocent or negligent), warranties, or terms other than those expressly set forth in the Proposal and this Agreement.

14.3 Amendments and Waivers. This Agreement may not be modified, amended, or supplemented except by a separate written document executed by both Parties. No term of this Agreement shall be deemed waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the Party issuing the same.

14.4 Notices. All notices and other communications given or made pursuant to this Agreement will be in writing and will be deemed effectively delivered: (a) if sent by certified or registered mail, on the date received; (b) if sent by courier, on the date delivered; or (c) if refused, on the date of such refusal. All notices and communications will be

sent to the parties at the addresses set forth in the Proposal. Either Party may change its contact information by delivering written notice to the other Party in the manner provided herein.

14.5 Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).

14.6 Relationship between the Parties. The relationship between the Parties is that of independent contractors. Nothing in this Agreement will constitute or be deemed to constitute a partnership, joint venture, employment relationship, or an agency. Under no circumstances will the employees of one Party be deemed to be employees of the other Party by virtue of this Agreement. Neither Party will have any authority to act on behalf of the other Party in any matter whatsoever, nor bind the other Party in any way without the other Party's prior written consent.

14.7 Headings. Severability. If any provision of this Agreement is invalid or unenforceable, that provision shall be construed, limited, modified, or, if necessary, severed to the extent necessary to eliminate its invalidity or unenforceability, and the other provisions of this Agreement shall remain in full force and effect. Any term which refers to a legal concept or process which exists in one jurisdiction shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which this Agreement may apply or to the laws of which a Customer may be or become subject. Headings are used in this Agreement for convenience only and shall not affect any construction or interpretation of this Agreement.

14.8 Successors. All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and permitted assigns of Advantage and Customer.

14.9 Governing Law and Jurisdiction. (a) This Agreement is governed by the Federal laws of the United States. (excluding the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded).

15. Definitions. In addition to the terms elsewhere defined in this Agreement, the following terms used in this Agreement shall have the following meanings:

"Affiliate" means any entity which controls, is controlled by, or is under common control with a Party, where "control" means the legal, beneficial, or equitable ownership of at least a majority of the aggregate of all voting equity interests in such entity, but only for so long as such control exists.

"Confidential Information" means all business information disclosed by one Party to the other in connection with this Agreement. Without limiting the generality of the foregoing, Confidential Information includes Confidential Information of the licensors of Advantage. Confidential Information does not include information that: (i) enters the public domain through no fault of the receiving Party; (ii) is communicated to the receiving Party by a third party under no obligation of confidentiality; (iii) has been independently developed by the receiving Party without reference or access to or use of any Confidential Information of the disclosing Party; or (iv) was in the receiving Party's lawful possession prior to disclosure and had not been obtained either directly or indirectly from the disclosing Party.

"Consulting Services" means implementation services, consulting services, and other specialized support services provided by Advantage to the Customer in accordance with a fully-executed Consulting Services Statement of Work, which is a written agreement separate from this Agreement. "Consulting Services Statement of Work" means a statement of work made under this Agreement and entered into by the Parties documenting the agreed Consulting Services.

"Documentation" means the then-current documentation published and made generally available by Advantage for the Licensed Software in the form of manuals and function descriptions in printed or electronic form, as the same may be modified by Advantage from time to time.

"Effective Date" shall have the meaning stated in the applicable Proposal.

"IP Rights" means all rights, title, and interest in and to any and all forms of intellectual property rights including, without limitation, all patent applications and patents, copyrights, mask-work rights, design rights, trademarks, trade names, domain-name rights, trade secret rights, moral rights, neighboring and other related rights, rights in know-how, confidential information, and other trade secret rights, other rights associated with the authorship and/or the creation of artistic, intellectual, or industrial property, and all forms of protection of a similar nature anywhere in the world and of every kind and nature however designated, whether arising by operation of law, treaty, contract, or license; whether tangible or intangible; whether or not registered, deposited, or published; and including without limitation, (i) all registrations, issuances, reissuances, amendments, extensions, continuations, divisions, licenses, and/or other counterparts thereof, whether in whole or in part, as well as all applications and the right to submit applications for any of the foregoing; and (ii) all legal rights arising from the use of the foregoing, such as (by way of example and not limitation) the right to license or otherwise authorize the transfer to and/or use of the foregoing by any other party and/or to assert a claim, cause of action, or other right arising out of or relating to any actual or threatened infringement by any person relating to the foregoing and recover damages, costs and attorney's fees for past, present and future infringement, misappropriation, or any other violation of any of the foregoing.



“Maintenance Policy” will have the meaning set forth in the Proposal.

“Maintenance Fees” will have the meaning set forth in the Proposal.

“On-Premises” means the deployment of a Licensed Software(s) at a Customer’s location in accordance with the terms of this Agreement.

“Third Party Materials” means any materials (including open-source materials) of a third party distributed or made available, directly or indirectly, by an Advantage to Customer under this Agreement, and all whole or partial copies thereof, including by way of example but not limited to all: (i) software and Documentation; (ii) machine readable instructions and code; (iii) technology, files, libraries, modules, menus, algorithms, tools, processes, procedures, calls, routines, meta data, macros, blueprints, templates, scripts, commands, syntax and other components of the Software; (iv) the user interface of software and all audio-visual content (such as displays, images, shading, colors, organization, associations, structure, positioning, text, look and feel, recordings, or pictures) associated therewith; and (v) Confidential Information and other Third Party Materials (such as license keys, packaging, training services and deliverables, maintenance services and deliverables, professional services).

“Third Party Product” means the software incorporated into FaxPulse Business Intelligence and forming any portion thereof and owned by a third party (not by Advantage). This definition applies regardless of whether the third party’s ownership of the separate component is known to Customer.

“Term” shall have the meaning set forth in the Proposal.

“Territory” means the geographic area(s) and/or market(s) as set out in the Proposal.

“Third Party IP Claim” means any claim, suit or proceeding brought by a third party against Advantage or its Affiliates that any software or service provided under this Agreement infringes a third party copyright or trademark, infringes a patent issued by the United States, Canada, Australia, Japan, Switzerland or any member country of the European Economic Area, or misappropriates a third party trade secret.

“Third Party Software” means open source and freeware components, and/or any other third party component, material or software licensed by the licensors of Advantage.